House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 126

SENATE BILL 1047

AN ACT

AMENDING SECTIONS 8-201, 8-802, 8-804 AND 8-811, ARIZONA REVISED STATUTES; RELATING TO CHILD PROTECTIVE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-201, Arizona Revised Statutes, is amended to read:

8-201. Definitions

In this title, unless the context otherwise requires:

1. "Abandoned" means the failure of the parent to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. Abandoned includes a judicial finding that a parent has made only minimal efforts to support and communicate with the child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months constitutes prima facie evidence of abandonment.

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist ~~pursuant to section 8-821~~ and is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse includes:

(a) Inflicting or allowing sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553, incest pursuant to section 13-3608 or child prostitution pursuant to section 13-3212.

~~(b) Physical injury to a child that results from abuse as described in section 13-3623, subsection C.~~

(b) PHYSICAL INJURY THAT RESULTS FROM PERMITTING A CHILD TO ENTER OR REMAIN IN ANY STRUCTURE OR VEHICLE IN WHICH VOLATILE, TOXIC OR FLAMMABLE CHEMICALS ARE FOUND OR EQUIPMENT IS POSSESSED BY ANY PERSON FOR THE PURPOSE OF MANUFACTURING A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.

(c) UNREASONABLE CONFINEMENT OF A CHILD.

3. "Adult" means a person who is eighteen years of age or older.

4. "Adult court" means the appropriate justice court, municipal court or criminal division of the superior court that has jurisdiction to hear proceedings concerning offenses committed by juveniles as provided in sections 8-327 and 13-501.

5. "Award" or "commit" means to assign legal custody.

6. "Child", "youth" or "juvenile" means an individual who is under the age of eighteen years.

7. "Complaint" means a written statement of the essential facts constituting a public offense that is any of the following:

(a) Made on an oath before a judge or commissioner of the superior court or an authorized juvenile hearing officer.

(b) Made pursuant to section 13-3903.

(c) Accompanied by an affidavit of a law enforcement officer or employee that swears on information and belief to the accuracy of the complaint pursuant to section 13-4261.

8. "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

9. "Delinquency hearing" means a proceeding in the juvenile court to determine whether a juvenile has committed a specific delinquent act as set forth in a petition.

10. "Delinquent act" means an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense.

11. "Delinquent juvenile" means a child who is adjudicated to have committed a delinquent act.

12. "Department" means the department of economic security.

13. "Dependent child":

(a) Means a child who is adjudicated to be:

(i) In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control.

(ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care.

(iii) A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian or any other person having custody or care of the child.

(iv) Under eight years of age and who is found to have committed an act that would result in adjudication as a delinquent juvenile or incorrigible child if committed by an older juvenile or child.

(v) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in section 13-706.

(b) Does not include a child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner if none of the circumstances described in subdivision (a) of this paragraph exists.

14. "Detention" means the temporary confinement of a juvenile who requires secure care in a physically restricting facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress for the protection of the juvenile or the community pending court disposition or as a condition of probation.

15. "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-3201.

~~15.~~ 16. "Incorrigible child" means a child who:

(a) Is adjudicated as a child who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian and who is beyond the control of that person.

(b) Is habitually truant from school as defined in section 15-803, subsection C.

(c) Is a runaway from the child's home or parent, guardian or custodian.

(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others.

(e) Commits any act constituting an offense that can only be committed by a minor and that is not designated as a delinquent act.

(f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

~~16.~~ 17. "Independent living program" includes a residential program with supervision of less than twenty-four hours a day.

~~17.~~ 18. "Juvenile court" means the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility.

~~18.~~ 19. "Law enforcement officer" means a peace officer, sheriff, deputy sheriff, municipal police officer or constable.

~~19.~~ 20. "Medical director of a mental health agency" means a psychiatrist, or licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency, or a psychiatrist designated by the governing body to act for the director. The term includes the superintendent of the state hospital.

~~20.~~ 21. "Mental health agency" means any private or public facility that is licensed by this state as a mental health treatment agency, a psychiatric hospital, a psychiatric unit of a general hospital or a residential treatment center for emotionally disturbed children and that uses secure settings or mechanical restraints.

~~21.~~ 22. "Neglect" or "neglected" means:

(a) The inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care if that inability or unwillingness causes ~~substantial~~ UNREASONABLE risk of harm to the child's health or welfare, except if the inability of a parent, ~~or~~ guardian OR CUSTODIAN to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

(b) PERMITTING A CHILD TO ENTER OR REMAIN IN ANY STRUCTURE OR VEHICLE IN WHICH VOLATILE, TOXIC OR FLAMMABLE CHEMICALS ARE FOUND OR EQUIPMENT IS

POSSESSED BY ANY PERSON FOR THE PURPOSES OF MANUFACTURING A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.

(c) A DETERMINATION BY A HEALTH PROFESSIONAL THAT A NEWBORN INFANT WAS EXPOSED PRENATALLY TO A DRUG OR SUBSTANCE LISTED IN SECTION 13-3401 AND THAT THIS EXPOSURE WAS NOT THE RESULT OF A MEDICAL TREATMENT ADMINISTERED TO THE MOTHER OR THE NEWBORN INFANT BY A HEALTH PROFESSIONAL. THIS SUBDIVISION DOES NOT EXPAND A HEALTH PROFESSIONAL'S DUTY TO REPORT NEGLECT BASED ON PRENATAL EXPOSURE TO A DRUG OR SUBSTANCE LISTED IN SECTION 13-3401 BEYOND THE REQUIREMENTS PRESCRIBED PURSUANT TO SECTION 13-3620, SUBSECTION E. THE DETERMINATION BY THE HEALTH PROFESSIONAL SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING:

(i) CLINICAL INDICATORS IN THE PRENATAL PERIOD INCLUDING MATERNAL AND NEWBORN PRESENTATION.

(ii) HISTORY OF SUBSTANCE USE OR ABUSE.

(iii) MEDICAL HISTORY.

(iv) RESULTS OF A TOXICOLOGY OR OTHER LABORATORY TEST ON THE MOTHER OR THE NEWBORN INFANT.

(d) DIAGNOSIS BY A HEALTH PROFESSIONAL OF AN INFANT UNDER ONE YEAR OF AGE WITH CLINICAL FINDINGS CONSISTENT WITH FETAL ALCOHOL SYNDROME OR FETAL ALCOHOL EFFECTS.

(e) DELIBERATE EXPOSURE OF A CHILD BY A PARENT, GUARDIAN OR CUSTODIAN TO SEXUAL CONDUCT AS DEFINED IN SECTION 13-3551 OR TO SEXUAL CONTACT, ORAL SEXUAL CONTACT OR SEXUAL INTERCOURSE AS DEFINED IN SECTION 13-1401, BESTIALITY AS PRESCRIBED IN SECTION 13-1411 OR EXPLICIT SEXUAL MATERIALS AS DEFINED IN SECTION 13-3507.

(f) ANY OF THE FOLLOWING ACTS COMMITTED BY THE CHILD'S PARENT, GUARDIAN OR CUSTODIAN WITH RECKLESS DISREGARD AS TO WHETHER THE CHILD IS PHYSICALLY PRESENT:

(i) SEXUAL CONTACT AS DEFINED IN SECTION 13-1401.

(ii) ORAL SEXUAL CONTACT AS DEFINED IN SECTION 13-1401.

(iii) SEXUAL INTERCOURSE AS DEFINED IN SECTION 13-1401.

(iv) BESTIALITY AS PRESCRIBED IN SECTION 13-1411.

23. "NEWBORN INFANT" MEANS A CHILD WHO IS UNDER THIRTY DAYS OF AGE.

~~22.~~ 24. "Petition" means a written statement of the essential facts that allege delinquency, incorrigibility or dependency.

~~23.~~ 25. "Prevention" means the creation of conditions, opportunities and experiences that encourage and develop healthy, self-sufficient children and that occur before the onset of problems.

~~24.~~ 26. "Protective supervision" means supervision that is ordered by the juvenile court of children who are found to be dependent or incorrigible.

~~25.~~ 27. "Referral" means a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act.

~~26.~~ 28. "Secure care" means confinement in a facility that is completely surrounded by a locked and physically secure barrier with restricted ingress and egress.

~~27.~~ 29. "Serious emotional injury" means an injury that is diagnosed by a medical doctor or a psychologist and that does any one or a combination of the following:

(a) Seriously impairs mental faculties.

(b) Causes serious anxiety, depression, withdrawal or social dysfunction behavior to the extent that the child suffers dysfunction that requires treatment.

(c) Is the result of sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, child prostitution pursuant to section 13-3212, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553 or incest pursuant to section 13-3608.

~~28.~~ 30. "Serious physical injury" means an injury that is diagnosed by a medical doctor and that does any one or a combination of the following:

(a) Creates a reasonable risk of death.

(b) Causes serious or permanent disfigurement.

(c) Causes significant physical pain.

(d) Causes serious impairment of health.

(e) Causes the loss or protracted impairment of an organ or limb.

(f) Is the result of sexual abuse pursuant to section 13-1404, sexual conduct with a minor pursuant to section 13-1405, sexual assault pursuant to section 13-1406, molestation of a child pursuant to section 13-1410, child prostitution pursuant to section 13-3212, commercial sexual exploitation of a minor pursuant to section 13-3552, sexual exploitation of a minor pursuant to section 13-3553 or incest pursuant to section 13-3608.

~~29.~~ 31. "Shelter care" means the temporary care of a child in any public or private facility or home that is licensed by this state and that offers a physically nonsecure environment that is characterized by the absence of physically restricting construction or hardware and that provides the child access to the surrounding community.

Sec. 2. Section 8-802, Arizona Revised Statutes, is amended to read:

8-802. <u>Child protective services worker; fingerprint clearance cards; powers and duties; alteration of files; violation; classification</u>

A. The department of economic security shall employ child protective services workers. All persons who are employed as child protective services workers shall have a valid fingerprint clearance card that is issued pursuant to title 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance card within seven working days of employment. A child protective services worker shall certify on forms that are provided by the department of economic security and that are notarized whether the worker is awaiting trial

on or has ever been convicted of any of the criminal offenses listed in section 41-1758.03, subsections B and C in this state or similar offenses in another state or jurisdiction.

B. The department may cooperate with county agencies and community social services agencies to achieve the purposes of this chapter.

C. A child protective services worker shall:

1. Promote the safety and protection of children.

2. Accept, screen and assess reports of abuse or neglect pursuant to section 8-817.

3. Receive reports of dependent, abused or abandoned children and be prepared to provide temporary foster care for ~~such~~ THESE children on a twenty-four hour basis.

4. Receive from any source oral or written information regarding a child who may be in need of protective services. A worker shall not interview a child without the prior written consent of the parent, guardian or custodian of the child unless either:

(a) The child initiates contact with the worker.

(b) The child who is interviewed is the subject of or is the sibling of or living with the child who is the subject of an abuse or abandonment investigation pursuant to paragraph 5, subdivision (b) of this subsection.

(c) The interview is conducted pursuant to the terms of the protocols established pursuant to section 8-817.

5. After the receipt of any report or information pursuant to paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

(a) Notify the municipal or county law enforcement agency.

(b) Make a prompt and thorough investigation of the nature, extent and cause of any condition that would tend to support or refute the allegation that the child should be adjudicated dependent and the name, age and condition of other children in the home. A criminal conduct allegation shall be investigated according to the protocols established pursuant to section 8-817 with the appropriate municipal or county law enforcement agency as provided in section 8-817.

6. Take a child into temporary custody as provided in section 8-821. Law enforcement officers shall cooperate with the department to remove a child from the custody of the child's parents, guardian or custodian when necessary.

7. After investigation, evaluate conditions created by the parents, guardian or custodian that would support or refute the allegation that the child should be adjudicated dependent. The child protective services worker shall then determine whether any child is in need of protective services.

8. Offer to the family of any child who is found to be a child in need of protective services those services that are designed to correct unresolved problems that would indicate a reason to adjudicate the child dependent.

9. Submit a written report of the worker's investigation to:

(a) The department's case management information system within ~~twenty-one days~~ A REASONABLE TIME PERIOD THAT DOES NOT EXCEED FORTY-FIVE DAYS after receipt of the initial information except as provided in section 8-811. If the investigation involves allegations regarding a child who at the time of the alleged incident was in the custody of a child welfare agency licensed by the department of economic security under this title, a copy of the report and any additional investigative or other related reports shall be provided to the board of directors of the agency or to the administrative head of the agency unless the incident is alleged to have been committed by the person. The department shall excise all information with regard to the identity of the source of the reports.

(b) The appropriate court forty-eight hours before a dependency hearing pursuant to a petition of dependency or within twenty-one days after a petition of dependency is filed, whichever is earlier. On receipt of the report the court shall make the report available to all parties and counsel.

10. Accept a child into voluntary placement pursuant to section 8-806.

11. Make a good faith effort to promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the home with the child. As part of ~~their~~ THE good faith effort, the child protective services worker shall ask the parent, guardian or custodian under investigation if a current court order exists.

D. No child shall remain in temporary custody for a period exceeding seventy-two hours, excluding Saturdays, Sundays and holidays, unless a dependency petition is filed. If no petition is filed and the child is released to the child's parent, guardian or custodian, the worker shall file a report of removal with the central registry within seventy-two hours of the child's release. The report shall include:

1. The dates of previous referrals, investigations or temporary custody.

2. The dates on which other children in the family have been taken into temporary custody.

E. The department shall provide child protective services workers who investigate allegations of abuse and neglect with training in forensic interviewing and processes, the protocols established pursuant to section 8-817 and relevant law enforcement procedures. All child protective services workers shall be trained in their duty to protect the legal rights of children and families from the time of the initial contact through treatment. The training shall include knowledge of a child's rights as a victim of crime. The training for child protective services workers shall also include instruction on the legal rights of parents and the requirements for legal search and seizure by law enforcement officers.

F. In conducting an investigation pursuant to this section, if the worker is made aware that an allegation of abuse or neglect may also have been made in another state, the worker shall contact the appropriate agency

in that state to attempt to determine the outcome of any investigation of that allegation.

G. Any person who alters a client file for the purpose of fraud or misrepresentation is guilty of a class 2 misdemeanor.

Sec. 3. Section 8-804, Arizona Revised Statutes, is amended to read:

8-804. Central registry; notification

A. The department of economic security shall maintain a central registry of reports of child abuse and neglect that are substantiated and the outcome of the investigation of these reports made under this article. A FINDING MADE BY A COURT PURSUANT TO SECTION 8-844, SUBSECTION C THAT A CHILD IS DEPENDENT BASED UPON AN ALLEGATION OF ABUSE OR NEGLECT SHALL BE RECORDED AS A SUBSTANTIATED FINDING OF ABUSE OR NEGLECT. The department shall incorporate duplicate reports on the same incident in the original report and shall not classify duplicate reports as new reports.

B. Information contained in the central registry shall be used by the department only for the following purposes:

1. To conduct background checks as one factor to determine qualifications for foster home licensing, adoptive parent certification, child care home certification, registration of unregulated child care homes with the child care resource and referral system, and home and community based services certification for services to children.

2. To conduct background checks as one factor to determine qualifications for persons applying for employment with this state in positions that provide direct service to children or vulnerable adults and persons applying for contracts with this state, including employees of the potential contractor, for positions that provide direct service to children or vulnerable adults.

3. To identify and review reports concerning individual children and families, in order to facilitate the assessment of risk.

4. To determine the nature and scope of child abuse and neglect in this state and to provide statewide statistical and demographic information concerning trends in child abuse and neglect.

5. To allow comparisons of this state's statistical data with national data.

6. To comply with section 8-804.01, subsection B.

C. If the department received a report before September 1, 1999 and determined that the report was substantiated, the department shall maintain the report in the central registry until eighteen years from the child victim's date of birth.

D. If the department received a report on or after September 1, 1999 and determined that the report was substantiated, the department shall maintain the report in the central registry for twenty-five years after the date of the report.

E. The department shall annually purge reports and investigative outcomes received pursuant to the time frames prescribed in subsections C and D of this section.

F. Any person who was the subject of a child protective services investigation may request confirmation that the department has purged information about the person pursuant to subsection E of this section. On receipt of this request, the department shall provide the person with written confirmation that the department has no record containing identifying information about that person.

Sec. 4. Section 8-811, Arizona Revised Statutes, is amended to read:

8-811. Hearing process; definitions

A. The department shall notify a person who is alleged to have abused or neglected a child that the department intends to substantiate the allegation in the central registry pursuant to section 8-804 and of that person's right:

1. To receive a copy of the report containing the allegation.

2. To a hearing before the entry into the central registry pursuant to section 8-802, subsection ~~B~~ C, paragraph 9, subdivision (a).

B. The department shall send the notice prescribed in subsection A of this section by first class mail no more than fourteen days after completion of the investigation.

C. A request for a hearing on the proposed finding must be received by the department within fourteen days after receipt of the notice.

D. The department shall not disclose any information related to the investigation of the allegation except as provided in sections 8-802, 8-807 and 13-3620.

E. If a request for a hearing is made pursuant to subsection C of this section, the department shall conduct a review before the hearing. The department shall provide an opportunity for the accused person to provide written or verbal information to support the position that the department should not substantiate the allegation. If the department determines that there is no probable cause that the accused person engaged in the alleged conduct, the department shall amend the information or finding in the report and shall notify the person and a hearing shall not be held.

F. Notwithstanding section 41-1092.03, the notification prescribed in subsection A of this section shall also state that if the department does not amend the information or finding in the report as prescribed in subsection E of this section within sixty days after it receives the request for a hearing the person has a right to a hearing unless:

1. The person is a party in a civil, criminal or administrative proceeding in which the allegations of abuse or neglect are at issue.

2. A court or administrative law judge has made findings as to the alleged abuse or neglect.

3. A FINDING HAS BEEN MADE BY A COURT PURSUANT TO SECTION 8-844, SUBSECTION C THAT A CHILD IS DEPENDENT BASED UPON AN ALLEGATION OF ABUSE OR NEGLECT.

G. If the department does not amend the information or finding in the report as prescribed in subsection E of this section, the department shall notify the office of administrative hearings of the request for a hearing no later than five days after completion of the review. The department shall forward all records, reports and other relevant information with the request for hearing within ten days. The department shall redact the identity of the reporting source before transmitting the information to the office of administrative hearings.

H. The office of administrative hearings shall hold a hearing pursuant to title 41, chapter 6, article 10, with the following exceptions:

1. A child who is the victim of or a witness to abuse or neglect is not required to testify at the hearing.

2. A child's hearsay statement is admissible if the time, content and circumstances of that statement are sufficiently indicative of its reliability.

3. The identity of the reporting source of the abuse or neglect shall not be disclosed without the permission of the reporting source.

4. The reporting source is not required to testify.

5. A written statement from the reporting source may be admitted if the time, content and circumstances of that statement are sufficiently indicative of its reliability.

6. IF THE PERSON REQUESTING THE HEARING FAILS TO APPEAR, THE HEARING SHALL BE VACATED AND A SUBSTANTIATED FINDING OF ABUSE OR NEGLECT SHALL BE ENTERED. ON GOOD CAUSE SHOWN, THE HEARING MAY BE RESCHEDULED IF THE REQUEST IS MADE WITHIN FIFTEEN CALENDAR DAYS AFTER THE DATE OF THE NOTICE VACATING THE HEARING FOR FAILURE TO APPEAR.

I. On completion of the presentation of evidence, the administrative law judge shall determine if probable cause exists to sustain the department's finding that the ~~accused engaged in the alleged conduct~~ PARENT, GUARDIAN OR CUSTODIAN ABUSED OR NEGLECTED THE CHILD. If the administrative law judge determines that probable cause does not exist to sustain the department's finding, the administrative law judge shall order the department to amend the information or finding in the report.

J. When the department is requested to verify pursuant to section 8-807, if the child protective services central registry contains a substantiated report about a specific person, the department shall determine if the report was taken after January 1, 1998. If the report was taken after January 1, 1998, the department shall notify the requestor of the substantiated finding. If the child protective services report was taken before January 1, 1998, the department shall notify the person of the person's right to request an administrative hearing. The department shall not send this notification if the person was a party in a civil, criminal or

1 administrative proceeding in which the allegations of abuse or neglect were
2 at issue. The provisions of this section shall apply to the person's appeal.
3 K. The department shall provide the parent, guardian or custodian who
4 is the subject of the investigation and the person who reported the suspected
5 child abuse or neglect if that person is the child's parent, guardian or
6 custodian with a copy of the outcome of the investigation at one of the
7 following times:
8 1. If the report is unsubstantiated.
9 2. If probable cause exists that abuse or neglect has occurred but a
10 specific person is not identified as having abused or neglected the child.
11 3. After the time to request a hearing has lapsed pursuant to
12 subsection C of this section without the department receiving a request for a
13 hearing.
14 4. After a final administrative decision has been made pursuant to
15 section 41-1092.08.
16 L. For the purposes of this section:
17 1. "Amend the finding" means to change the finding from substantiated
18 to unsubstantiated.
19 2. "Amend the information" means to change information identifying the
20 accused of having abused or neglected a child.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.