

COMMITTEE ON COMMERCE
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2695
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 <<Sec. 1. Section 46-454, Arizona Revised Statutes, is amended to
3 read:

4 46-454. Duty to report abuse, neglect and exploitation of
5 vulnerable adults; duty to make medical records
6 available; violation; classification

7 A. A health professional, emergency medical technician, home health
8 provider, hospital intern or resident, speech, physical or occupational
9 therapist, long-term care provider, social worker, peace officer, medical
10 examiner, guardian, conservator, fire protection personnel, developmental
11 disabilities provider, employee of the department of economic security or
12 other person who has responsibility for the care of a vulnerable adult and
13 who has a reasonable basis to believe that abuse, neglect or exploitation
14 of the vulnerable adult has occurred shall immediately report or cause
15 reports to be made of such reasonable basis to a peace officer or to the
16 adult protective services central intake unit. The guardian or
17 conservator of a vulnerable adult shall immediately report or cause
18 reports to be made of such reasonable basis to the superior court and the
19 adult protective services central intake unit. The reports required by
20 this subsection shall be made immediately by telephone or online.

21 B. If an individual listed in subsection A of this section is an
22 employee or agent of a health care institution as defined in section
23 36-401 and the health care institution's procedures require that all
24 suspected abuse, neglect and exploitation be reported to adult protective
25 services as required by law, the individual is deemed to have complied
26 with the requirements of subsection A of this section by reporting or
27 causing a report to be made to the health care institution in accordance
28 with the health care institution's procedures.

1 C. An attorney, accountant, trustee, guardian, conservator[,
2 BANKING OR FINANCIAL PROFESSIONAL] or other person who has responsibility
3 for preparing the tax records of a vulnerable adult or a person who has
4 responsibility for any other action concerning the use or preservation of
5 the vulnerable adult's property and who, in the course of fulfilling that
6 responsibility, discovers a reasonable basis to believe that abuse,
7 neglect or exploitation of the vulnerable adult has occurred shall
8 immediately report or cause reports to be made of such reasonable basis to
9 a peace officer or to the adult protective services central intake
10 unit. The reports required by this subsection shall be made immediately
11 by telephone or online.

12 D. Reports pursuant to subsections A and C of this section shall
13 contain:

14 1. The names and addresses of the vulnerable adult and any persons
15 having control or custody of the vulnerable adult, if known.

16 2. The vulnerable adult's age and the nature and extent of the
17 vulnerable adult's vulnerability.

18 3. The nature and extent of the abuse, neglect or exploitation.

19 4. Any other information that the person reporting believes might
20 be helpful in establishing the cause of the abuse, neglect or
21 exploitation.

22 E. Any person other than one required to report or cause reports to
23 be made pursuant to subsection A or C of this section who has a reasonable
24 basis to believe that abuse, neglect or exploitation of a vulnerable adult
25 has occurred may report the information to a peace officer or to the adult
26 protective services central intake unit.

27 F. A person having custody or control of medical or financial
28 records of a vulnerable adult for whom a report is required or authorized
29 under this section shall make those records, or a copy of those records,
30 available to a peace officer or adult protective services worker
31 investigating the vulnerable adult's abuse, neglect or exploitation on
32 written request for the records signed by the peace officer or adult
33 protective services worker. Records disclosed pursuant to this subsection
34 are confidential and may be used only in a judicial or administrative
35 proceeding or investigation resulting from a report required or authorized
36 under this section.

37 G. If reports pursuant to this section are received by a peace
38 officer, the peace officer shall notify the adult protective services
39 central intake unit as soon as possible and make that information
40 available to them, including all related police records. A peace officer
41 shall provide the information to adult protective services as soon as
42 possible.

43 H. A person required to receive reports pursuant to subsection A, C
44 or E of this section may take or cause to be taken photographs of the
45 abused vulnerable adult and the vicinity involved. Medical examinations,
46 including radiological examinations of the involved vulnerable adult, may
47 be performed. Accounts, inventories or audits of the exploited vulnerable

1 adult's property may be performed. The person, department, agency or court that initiates the photographs, examinations, accounts, inventories or audits shall pay the associated costs in accordance with existing statutes and rules. If any person is found to be responsible for the abuse, neglect or exploitation of a vulnerable adult in a criminal or civil action, the court may order the person to make restitution as the court deems appropriate.

8 I. If psychiatric records are requested pursuant to subsection F of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

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

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

17 J. If any portion of a psychiatric record is excised pursuant to subsection I of this section, a court, on application of a peace officer or adult protective services worker, may order that the entire record or any portion of the record containing information relevant to the reported abuse, neglect or exploitation be made available to the peace officer or adult protective services worker investigating the abuse, neglect or exploitation.

24 K. A licensing agency shall not find that a reported incidence of abuse at a care facility by itself is sufficient grounds to allow the agency to close the facility or to find that all residents are in imminent danger.

28 L. Retaliation against a person who in good faith reports abuse, neglect or exploitation is prohibited. Retaliation against a vulnerable adult who is the subject of a report is prohibited. Any adverse action taken against a person who reports abuse, neglect or exploitation or a vulnerable adult who is the subject of the report within ninety days after the report is filed is presumed to be retaliation.

34 M. A person who violates this section is guilty of a class 1 misdemeanor, except that if the failure to report involves an offense listed in title 13, chapter 14, the person is guilty of a class 6 felony.>>

38 Sec. 2. Title 46, chapter 4, article 1, Arizona Revised Statutes, is amended by adding section 46-456.01, to read:

40 46-456.01. Financial institutions; financially vulnerable
41 adults; trusted contact list; training;
42 immunity; definitions

43 A. A FINANCIAL INSTITUTION MAY OFFER TO A FINANCIALLY VULNERABLE
44 ADULT THE OPPORTUNITY TO SUBMIT AND UPDATE A TRUSTED CONTACT LIST. A
45 FINANCIAL INSTITUTION SHALL CONDUCT THE SAME LEVEL OF REASONABLE DUE
46 DILIGENCE ON ANY TRUSTED PERSON THAT THE FINANCIAL INSTITUTION CONDUCTS
47 FOR THE FINANCIAL INSTITUTION'S CUSTOMERS.

1 B. A FINANCIAL INSTITUTION THAT HAS REASONABLE CAUSE TO SUSPECT
2 THAT A FINANCIALLY VULNERABLE ADULT IS A VICTIM OR TARGET OF EXPLOITATION
3 SHALL COMMUNICATE WITH ANY OR ALL OF THE FOLLOWING ~~[UNLESS THAT INDIVIDUAL~~
4 ~~IS SUSPECTED AS THE POSSIBLE PERPETRATOR OF THE ALLEGED EXPLOITATION]~~:
5 1. ANY PERSON ON THE TRUSTED CONTACT LIST.
6 2. A CO-OWNER, ADDITIONAL AUTHORIZED SIGNATORY OR BENEFICIARY ON
7 ANY ACCOUNT THAT IS HELD BY A FINANCIALLY VULNERABLE ADULT.
8 3. ANY INDIVIDUAL WHO IS REASONABLY ASSOCIATED WITH THE FINANCIALLY
9 VULNERABLE ADULT, INCLUDING A FAMILY MEMBER, IF THE FINANCIALLY VULNERABLE
10 ADULT:
11 (a) DID NOT PROVIDE A TRUSTED CONTACT LIST OR THE FINANCIAL
12 INSTITUTION WAS UNABLE TO COMMUNICATE WITH THE INDIVIDUALS ON THE TRUSTED
13 CONTACT LIST.
14 (b) DOES NOT HAVE A POWER OF ATTORNEY.
15 ~~[4. A FINANCIAL POWER OF ATTORNEY.]~~
16 C. INFORMATION THAT IS SHARED PURSUANT TO THIS SECTION IS EXEMPT
17 FROM ANY CUSTOMER CONSENT OR CUSTOMER NOTICE REQUIREMENTS.
18 D. A FINANCIAL INSTITUTION SHALL PROVIDE TRAINING THAT INCLUDES ALL
19 OF THE FOLLOWING:
20 1. HOW TO IDENTIFY EXPLOITATION OF A FINANCIALLY VULNERABLE ADULT.
21 2. HOW TO REPORT SUSPECTED FINANCIAL EXPLOITATION INTERNALLY WITHIN
22 THE FINANCIAL INSTITUTION.
23 3. HOW TO REPORT SUSPECTED EXPLOITATION TO LAW ENFORCEMENT~~[;]~~ ~~[OR]~~
24 ~~ADULT PROTECTIVE SERVICES[OR ANY OTHER GOVERNMENTAL ENTITY]~~.
25 4. HOW TO RECOGNIZE THE SIGNS OF EXPLOITATION.
26 5. HOW TO PROTECT CONFIDENTIAL INFORMATION.
27 E. A FINANCIAL INSTITUTION THAT PROVIDES EXPLOITATION TRAINING TO
28 IDENTIFY FINANCIALLY VULNERABLE ADULTS SHALL:
29 1. RETAIN A COPY OF THE TRAINING MATERIALS.
30 2. MAINTAIN A LIST OF EMPLOYEES WHO ATTEND THE TRAINING AND INCLUDE
31 THE DATES OF COMPLETION FOR EACH EMPLOYEE.
32 3. PROVIDE THE TRAINING MATERIALS TO THE DEPARTMENT OF INSURANCE
33 AND FINANCIAL INSTITUTIONS ~~[OR ANY OTHER GOVERNMENTAL ENTITY]~~ ON REQUEST.
34 THE FINANCIAL INSTITUTION MAY NOT DISCLOSE THE TRAINING MATERIALS TO
35 FORMER EMPLOYEES.
36 F. IF A FINANCIAL INSTITUTION HAS REASONABLE SUSPICION TO BELIEVE
37 THAT A FINANCIALLY VULNERABLE ADULT IS BEING OR MAY HAVE BEEN EXPLOITED,
38 THE FINANCIAL INSTITUTION SHALL REPORT THE BEHAVIOR TO ADULT PROTECTIVE
39 ~~SERVICES[;]~~ ~~[OR]~~ LAW ENFORCEMENT ~~[OR ANY OTHER GOVERNMENTAL ENTITY]~~. THE
40 FINANCIAL INSTITUTION SHALL COOPERATE IN ANY INVESTIGATION AND DISCLOSE
41 FINANCIAL RECORDS AND INFORMATION RELEVANT TO AN INVESTIGATION.
42 G. A FINANCIAL INSTITUTION IS IMMUNE FROM ANY CIVIL OR
43 ADMINISTRATIVE LIABILITY FOR ANY ACT TAKEN OR OMISSION MADE IN GOOD FAITH
44 PURSUANT TO THIS SECTION, IF THE FINANCIAL INSTITUTION PROVIDED TRAINING
45 TO THE FINANCIAL INSTITUTION'S EMPLOYEES.
46 H. FOR THE PURPOSES OF THIS SECTION:
47 1. "FINANCIAL INSTITUTION":

1 (a) HAS THE SAME MEANING PRESCRIBED IN SECTION 6-101.

2 (b) INCLUDES EMPLOYEES OF THE FINANCIAL INSTITUTION.

3 2. "FINANCIALLY VULNERABLE ADULT" ~~[HAS THE SAME MEANING PRESCRIBED~~
4 ~~IN SECTION 46-451, SUBSECTION A, PARAGRAPH 12.] [MEANS AN INDIVIDUAL WHO~~
5 ~~IS EITHER OF THE FOLLOWING:~~

6 ~~(a) AT LEAST SIXTY-FIVE YEARS OF AGE.~~

7 ~~(b) AT LEAST EIGHTEEN YEARS OF AGE AND WHO IS INCAPABLE OF MANAGING~~
8 ~~OR DIRECTING THE MANAGEMENT OF THE INDIVIDUAL'S PROPERTY DUE TO ANY OF THE~~
9 ~~FOLLOWING:~~

10 ~~(i) MENTAL ILLNESS.~~

11 ~~(ii) INTELLECTUAL DISABILITY.~~

12 ~~(iii) DEMENTIA.~~

13 ~~(iv) OTHER PHYSICAL OR MENTAL INCAPACITY.]~~

14 3. "TRUSTED CONTACT LIST" MEANS A LIST OF TRUSTED INDIVIDUALS THAT
15 A FINANCIALLY VULNERABLE ADULT SUBMITS TO A FINANCIAL INSTITUTION AND THAT
16 AUTHORIZES THE FINANCIAL INSTITUTION TO CONTACT INDIVIDUALS ON THE LIST IF
17 THE FINANCIAL INSTITUTION HAS REASONABLE CAUSE TO SUSPECT THAT THE
18 FINANCIALLY VULNERABLE ADULT IS A VICTIM OR TARGET OF EXPLOITATION.

19 Enroll and engross to conform

20 Amend title to conform

And, as so amended, it do pass

JEFF WENINGER
CHAIRMAN

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