

Adult Protective Services Statutory Changes



Mandatory Reporter

Protection and safety of vulnerable adults requires the involvement of all community members. While any person may communicate to APS about suspected vulnerable adult abuse, neglect, self-neglect, or exploitation, mandatory reporters have a duty to report. Mandatory reporters are critical for APS to intervene and address the maltreatment.

SB 1538 expanded the list of professionals who have a duty to report maltreatment of vulnerable adults as outlined in A.R.S. § 46-454.

Before, the list of mandated reporters included:

- physicians
- surgeons
- dentists
- social workers
- other person who has responsibility for the care of a vulnerable adult and has a reasonable basis to believe that abuse, neglect or exploitation has occurred.
- An attorney, accountant, trustee, guardian, conservator or other person who has responsibility for preparing the tax records of a vulnerable adult or a person who has responsibility for any other action concerning the use or preservation of the vulnerable adult's property and who in the course of fulfilling that responsibility, discovers a reasonable basis to believe that abuse, neglect or exploitation of the adult has occurred.
- registered nurse practitioners
- hospital intern or a resident
- psychologists
- peace officer; or

Effective August 27, 2019, the following were added to the list of mandatory reporters:

- physician assistants
- home health providers
- medical examiners
- psychiatrists
- guardians
- pharmacists
- conservators
- speech
- long-term care providers
- physical or occupational therapists
- fire protection personnel
- developmental disabilities providers
- emergency medical technician (EMT)
- licensed practical or registered nurses
- any employee of the Department of Economic Security
- certified nursing assistants

Neglect Definition

SB 1538 also updated the definition of neglect by removing the need for a *pattern*. Neglect was previously defined as a pattern of conduct without the person's informed consent resulting in the deprivation of food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health (A.R.S. § 46-451).

Effective August 27, 2019, the definition of neglect is:

The deprivation of food, water, medication, medical services, shelter, *supervision*, cooling, heating or other services necessary to maintain minimum physical or mental health. (A.R.S. § 46-451).

This means a single neglectful action could be investigated.

See reverse for EOE/ADA disclosures

Reporting Source Protections

Pursuant to Arizona Revised Statute (A.R.S.) § 46-453, any person making a report to APS is immune from any civil or criminal liability unless the person acted with malice or such person has been charged with or is suspected of abusing, exploiting, or neglecting the vulnerable adult.

Persons may be hesitant to make a report to APS because of fear of losing their employment, being demoted, or by other means. SB 1538 expanded A.R.S. § 46-454 to add on additional protection for a person by prohibiting retaliation against that person who in good faith reports abuse, neglect or exploitation. Retaliation against a vulnerable adult who is the subject of a report is also prohibited.

Effective August 27, 2019, any adverse action taken against a person who reports abuse, neglect or exploitation or taken against a vulnerable adult who is the subject of the report within ninety days after the report is filed is presumed to be retaliation.

A person who violates any provision of A.R.S. § 46-454 is guilty of a class 1 misdemeanor.