

REFERENCE TITLE: health care institutions; visitation

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1514

Introduced by
Senators Barto: Borrelli, Boyer, Gowan, Gray, Kerr, Leach, Livingston,
Petersen, Shope, Townsend, Ugenti-Rita

AN ACT

REPEALING SECTION 36-407.01, ARIZONA REVISED STATUTES; AMENDING TITLE 36,
CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION
36-407.01; RELATING TO HEALTH CARE INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 36-407.01, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 36, chapter 4, article 1, Arizona Revised Statutes,
5 is amended by adding a new section 36-407.01, to read:

6 36-407.01. Visitation policies; notice; communication
7 devices; violations; damages

8 A. A HEALTH CARE INSTITUTION SHALL PROVIDE NOTICE OF ITS VISITATION
9 POLICY TO EACH PATIENT OR THE PATIENT'S REPRESENTATIVE. THE POLICY MUST
10 ALLOW BOTH OF THE FOLLOWING:

11 1. FOR THE PATIENT TO BE CONSTANTLY ACCOMPANIED BY AT LEAST TWO
12 VISITORS OF THE PATIENT'S CHOOSING. THE PATIENT MUST BE FREE TO CHANGE
13 THE IDENTITY OF THESE VISITORS AS OFTEN AS THE PATIENT WISHES.

14 2. IF A SERIOUS POSSIBILITY EXISTS THAT THE PATIENT WILL LOSE
15 CONSCIOUSNESS OR DIE WITHIN TWENTY-FOUR HOURS OR IF THE PATIENT HAS LOST
16 CONSCIOUSNESS, FOR ALL MEMBERS OF THE PATIENT'S IMMEDIATE FAMILY AND A
17 CLERGY MEMBER OF THE PATIENT'S CHOOSING TO VISIT THE PATIENT IMMEDIATELY
18 AND ON DEMAND UNLESS THE PATIENT HAS EXPRESSED A CONTRARY PREFERENCE.

19 B. A HEALTH CARE INSTITUTION SHALL ALLOW PATIENTS TO COMMUNICATE
20 PROMPTLY AND ON DEMAND WITH ANY PERSON OF THEIR CHOICE. A HEALTH CARE
21 INSTITUTION MAY NOT:

22 1. PROHIBIT PATIENTS FROM HAVING COMMUNICATION DEVICES WITH THEM
23 SUCH AS CELL PHONES, SMARTPHONES AND PERSONAL COMPUTERS.

24 2. PROHIBIT PATIENTS FROM HAVING SUCH COMMUNICATION DEVICES BROUGHT
25 TO THEM PROMPTLY ON DEMAND OR FAIL TO PROVIDE MEANS BY WHICH SUCH A
26 REQUEST MAY BE EXPEDITIOUSLY MADE BY THE PATIENT.

27 3. TAKE COMMUNICATION DEVICES AWAY FROM PATIENTS AT ANY TIME.

28 C. THE SUPERIOR COURT IN EACH COUNTY SHALL HEAR CLAIMS FOR A
29 VIOLATION OF THIS SECTION WITHIN TWENTY-FOUR HOURS, INCLUDING HOLIDAYS AND
30 WEEKENDS, AND ENTER JUDGMENT WITHIN THAT TIME AS TO WHETHER PRELIMINARY
31 INJUNCTIVE RELIEF SHOULD BE GRANTED.

32 D. A HEALTH CARE INSTITUTION THAT VIOLATES THIS SECTION SHALL PAY
33 DAMAGES IN THE AMOUNT OF \$20,000 PER VIOLATION PER PATIENT, ADJUSTED FOR
34 INFLATION, IN ADDITION TO THE REASONABLE ATTORNEY FEES AND COSTS OF SUIT,
35 TO ANY PERSON WHO PREVAILS IN CHALLENGING A VIOLATION OF THIS SECTION.
36 PATIENTS HAVE STANDING TO ASSERT A VIOLATION OF THIS SECTION. IN THE
37 EVENT OF A PATIENT'S DEATH, THE PARTIES SET FORTH IN SECTION 12-612 HAVE
38 THE RIGHT TO MAINTAIN AN ACTION FOR THE VIOLATION OF THIS SECTION. CLAIMS
39 FOR A VIOLATION OF THIS SECTION MAY NOT BE WAIVED. FOR THE AVOIDANCE OF
40 DOUBT, PERSONS BRINGING OR DEFENDING A CLAIM FOR A VIOLATION OF THIS
41 SECTION HAVE THE RIGHT TO TRY THE CASE TO A JURY. THIS DOES NOT ABROGATE
42 IN ANY WAY THE OTHER RIGHTS TO TRIAL BY JURY AS MAY EXIST FOR THE
43 VIOLATION OF OTHER LAWS OR INDICATE A LEGISLATIVE INTENT THAT THE RIGHT TO
44 A JURY TRIAL MUST BE SPECIFIED BY THE STATUTE CREATING A CAUSE OF ACTION.

45 E. THIS SECTION DOES NOT PROHIBIT A HEALTH CARE INSTITUTION FROM
46 EXCLUDING VISITORS FROM A SURGICAL THEATER.