

House Engrossed

emotional abuse; vulnerable adults

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2397

AN ACT

AMENDING SECTION 46-451, ARIZONA REVISED STATUTES; RELATING TO VULNERABLE ADULTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 46-451, Arizona Revised Statutes, is amended to  
3 read:  
4 46-451. Definitions; program goals  
5 A. In this chapter, unless the context otherwise requires:  
6 1. "Abuse" means:  
7 (a) Intentional infliction of physical harm.  
8 (b) Injury caused by negligent acts or omissions.  
9 (c) Unreasonable confinement.  
10 (d) Sexual abuse or sexual assault.  
11 (e) **EMOTIONAL ABUSE.**  
12 2. "Adult protective services central intake unit" means a unit of  
13 specialized staff within adult protective services that is responsible for  
14 receiving reports of alleged abuse, neglect or exploitation of vulnerable  
15 adults or making the necessary resource referrals.  
16 3. "De facto conservator" means any person who takes possession of  
17 the estate of a vulnerable adult, without right or lawful authority. A de  
18 facto conservator is subject to all of the responsibilities that attach to  
19 a legally appointed conservator or trustee.  
20 4. "De facto guardian" means any person who takes possession of the  
21 person of a vulnerable adult, without right or lawful authority. A de  
22 facto guardian is subject to all of the responsibilities that attach to a  
23 legally appointed guardian.  
24 5. **"EMOTIONAL ABUSE" MEANS A PATTERN OF RIDICULING OR DEMEANING A**  
25 **VULNERABLE ADULT, MAKING DEROGATORY REMARKS TO A VULNERABLE ADULT,**  
26 **VERBALLY HARASSING A VULNERABLE ADULT OR THREATENING TO INFLECT PHYSICAL**  
27 **OR EMOTIONAL HARM ON A VULNERABLE ADULT.**  
28 ~~5.~~ 6. "Exploitation" means the illegal or improper use of a  
29 vulnerable adult or the vulnerable adult's resources for another's profit  
30 or advantage.  
31 ~~6.~~ 7. "Health professional" has the same meaning prescribed in  
32 section 32-3201.  
33 ~~7.~~ 8. "Informed consent" means any of the following:  
34 (a) A written expression by the person that the person fully  
35 understands the potential risks and benefits of the withdrawal of food,  
36 water, medication, medical services, shelter, cooling, heating or other  
37 services necessary to maintain minimum physical or mental health and that  
38 the person desires that the services be withdrawn. A written expression  
39 is valid only if the person is of sound mind and if the consent is  
40 witnessed by at least two individuals who do not benefit by the withdrawal  
41 of services.  
42 (b) Consent to withdraw food, water, medication, medical services,  
43 shelter, cooling, heating or other services necessary to maintain minimum  
44 physical or mental health as permitted by an order of a court of competent  
45 jurisdiction.

1 (c) A declaration made pursuant to title 36, chapter 32.

2 (d) Consent by another person under a durable power of attorney  
3 relating to health care services to withdraw food, water, medication,  
4 medical services, shelter, cooling, heating or other services necessary to  
5 maintain minimum physical or mental health.

6 ~~8.~~ 9. "Neglect" means the deprivation of food, water, medication,  
7 medical services, shelter, supervision, cooling, heating or other services  
8 necessary to maintain a vulnerable adult's minimum physical or mental  
9 health.

10 ~~9.~~ 10. "Protective services" means a program of identifiable and  
11 specialized social services that may offer social services appropriate to  
12 resolve problems of abuse, exploitation or neglect of a vulnerable adult.

13 ~~10.~~ 11. "Protective services worker" means a person who has been  
14 selected by and trained under the requirements prescribed by the  
15 department to provide protective services.

16 ~~11.~~ 12. "Vulnerable adult" means an individual who is eighteen  
17 years of age or older and who is unable to protect himself from abuse,  
18 neglect or exploitation by others because of a physical or mental  
19 impairment. Vulnerable adult includes an incapacitated person as defined  
20 in section 14-5101.

21 B. Protective services programs shall seek to maintain the adult in  
22 the adult's familiar environment by strengthening the adult's capacity for  
23 self-maintenance or by providing supportive services.

24 C. This section does not mean that an adult is abused, neglected or  
25 in need of protective services for the sole reason that the adult relies  
26 on treatment from a recognized religious method of healing in lieu of  
27 medical treatment.

28 D. For the purposes of this section, a person is not exploited by a  
29 transfer of assets if the transfer is to obtain or maintain eligibility  
30 for benefits under title 36, chapter 29 or benefits for supplemental  
31 security income, medicare or veterans' administration programs and the  
32 transfer of assets is between the person and any of the following:

- 33 1. The person's spouse.  
34 2. The person's child with a disability.  
35 3. A trust for the benefit of the person's spouse or child with a  
36 disability.

37 E. A transfer of assets for the purpose of obtaining or maintaining  
38 eligibility for benefits under title 36, chapter 29 shall comply with 42  
39 United States Code section 1396p and sections 36-2934 and 36-2934.01.