

MASON SUBSTITUTE FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2344

I move the following SUBSTITUTE amendment to the JUDICIARY Committee Amendment to HOUSE BILL 2344 (Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 12-562, Arizona Revised Statutes, is amended to
3 read:

4 12-562. Medical malpractice actions; grounds

5 A. A medical malpractice action shall not be brought against a
6 licensed health care provider except upon the grounds set forth in section
7 12-561.

8 B. A medical malpractice action brought against a licensed health care
9 provider shall not be based upon assault and battery.

10 C. A medical malpractice action based upon breach of contract for
11 professional services shall not be brought unless such contract is in
12 writing.

13 D. A medical malpractice action brought against a physician licensed
14 pursuant to title 32, chapter 13 or 17, a podiatrist licensed pursuant to
15 title 32, chapter 7, a registered nurse practitioner licensed pursuant to
16 title 32, chapter 15 or a physician assistant licensed pursuant to title 32,
17 chapter 25 regarding services provided within that person's scope of practice
18 shall not be based on the neglect, abuse or exploitation of ~~an incapacitated~~
19 ~~or~~ A vulnerable adult, except as provided in section 46-455."

20 Renumber to conform

21 Line 4, after "classification" insert "; definitions"

22 Line 25, after "if" insert ", WITHOUT LAWFUL AUTHORITY,"

23 Line 26, strike "an incapacitated or" insert "A"; strike "assets or"

24 Line 28, strike ", AS DEFINED IN SECTION 46-456,"

25 Line 29, strike "incapacitated or"; strike "asset or"

26 Line 30, after the period strike remainder of line

1 Page 1, strike lines 31 through 35, insert "PROOF THAT A PERSON TOOK CONTROL,
2 TITLE, USE OR MANAGEMENT OF A VULNERABLE ADULT'S PROPERTY WITHOUT ADEQUATE
3 CONSIDERATION TO THE VULNERABLE ADULT MAY GIVE RISE TO AN INFERENCE THAT THE
4 PERSON INTENDED TO DEPRIVE THE VULNERABLE ADULT OF THE PROPERTY.

5 C. IT IS AN AFFIRMATIVE DEFENSE TO ANY PROSECUTION UNDER SUBSECTION B
6 OF THIS SECTION THAT EITHER:

7 1. THE PROPERTY WAS GIVEN AS A GIFT CONSISTENT WITH A PATTERN OF GIFT
8 GIVING TO THE PERSON THAT EXISTED BEFORE THE ADULT BECAME VULNERABLE.

9 2. THE PROPERTY WAS GIVEN AS A GIFT CONSISTENT WITH A PATTERN OF GIFT
10 GIVING TO A CLASS OF INDIVIDUALS THAT EXISTED BEFORE THE ADULT BECAME
11 VULNERABLE.

12 3. THE SUPERIOR COURT APPROVED THE TRANSACTION BEFORE THE TRANSACTION
13 OCCURRED."

14 Reletter to conform

15 Between lines 41 and 42, insert:

16 "F. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO AN AGENT WHO IS
17 ACTING WITHIN THE SCOPE OF THE AGENT'S DUTIES AS OR ON BEHALF OF A HEALTH
18 CARE INSTITUTION THAT IS LICENSED PURSUANT TO TITLE 36, CHAPTER 4 AND THAT
19 PROVIDES SERVICES TO THE VULNERABLE ADULT."

20 Reletter to conform

21 Page 2, between lines 17 and 18, insert:

22 "I. FOR THE PURPOSES OF THIS SECTION:

23 1. "ADEQUATE CONSIDERATION" MEANS THE PROPERTY WAS GIVEN TO THE PERSON
24 AS PAYMENT FOR BONA FIDE GOODS OR SERVICES PROVIDED BY THE PERSON AND THE
25 PAYMENT WAS AT A RATE THAT WAS CUSTOMARY FOR SIMILAR GOODS OR SERVICES IN THE
26 COMMUNITY THAT THE VULNERABLE ADULT RESIDED IN AT THE TIME OF THE
27 TRANSACTION.

28 2. "PATTERN OF GIFT GIVING" MEANS TWO OR MORE GIFTS THAT ARE THE SAME
29 OR SIMILAR IN TYPE AND MONETARY VALUE.

30 3. "POSITION OF TRUST AND CONFIDENCE" HAS THE SAME MEANING PRESCRIBED
31 IN SECTION 46-456.

1 4. "PROPERTY" INCLUDES ALL FORMS OF REAL PROPERTY AND PERSONAL
2 PROPERTY.

3 5. "VULNERABLE ADULT" HAS THE SAME MEANING AS PRESCRIBED IN SECTION
4 46-451."

5 Page 2, line 19, strike "best interest:"

6 Strike lines 21 through 32

7 Reletter to conform

8 Page 3, strike lines 9 and 10

9 Reletter to conform

10 Line 15, strike "AN INCAPACITATED OR" insert "A"

11 Strike lines 17 through 21

12 Reletter to conform

13 Line 22, strike "AN INCAPACITATED OR" insert "A"

14 Line 28, strike "INCAPACITATED OR"

15 Lines 32 and 34, strike "AN INCAPACITATED OR" insert "A"

16 Between lines 38 and 39, insert:

17 "Sec. 4. Section 46-451, Arizona Revised Statutes, is amended to read:

18 46-451. Definitions; program goals

19 A. In this chapter, unless the context otherwise requires:

20 1. "Abuse" means:

21 (a) Intentional infliction of physical harm.

22 (b) Injury caused by negligent acts or omissions.

23 (c) Unreasonable confinement.

24 (d) Sexual abuse or sexual assault.

25 2. "De facto conservator" means any person who takes possession of the
26 estate of ~~an incapacitated or~~ A vulnerable adult, without right or lawful
27 authority. A de facto conservator is subject to all of the responsibilities
28 that attach to a legally appointed conservator or trustee.

29 3. "De facto guardian" means any person who takes possession of the
30 person of ~~an incapacitated or~~ A vulnerable adult, without right or lawful
31 authority. A de facto guardian is subject to all of the responsibilities
32 that attach to a legally appointed guardian.

1 4. "Exploitation" means the illegal or improper use of ~~an~~
2 ~~incapacitated or~~ A vulnerable adult or his resources for another's profit or
3 advantage.

4 ~~5. "Incapacity" means an impairment by reason of mental illness,~~
5 ~~mental deficiency, mental disorder, physical illness or disability, advanced~~
6 ~~age, chronic use of drugs, chronic intoxication or other cause to the extent~~
7 ~~that the person lacks sufficient understanding or capacity to make or~~
8 ~~communicate informed decisions concerning his person.~~

9 ~~6.~~ 5. "Informed consent" means any of the following:

10 (a) A written expression by the person that the person fully
11 understands the potential risks and benefits of the withdrawal of food,
12 water, medication, medical services, shelter, cooling, heating or other
13 services necessary to maintain minimum physical or mental health and that the
14 person desires that the services be withdrawn.

15 (b) Consent to withdraw food, water, medication, medical services,
16 shelter, cooling, heating or other services necessary to maintain minimum
17 physical or mental health as permitted by an order of a court of competent
18 jurisdiction.

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

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

24 ~~7.~~ 6. "Neglect" means a pattern of conduct without the person's
25 informed consent resulting in deprivation of food, water, medication, medical
26 services, shelter, cooling, heating or other services necessary to maintain
27 minimum physical or mental health.

28 ~~8.~~ 7. "Protective services" means a program of identifiable and
29 specialized social services that may offer social services appropriate to
30 resolve problems of abuse, exploitation or neglect of ~~an incapacitated or~~ A
31 vulnerable adult.

1 ~~9.~~ 8. "Protective services worker" means a person who has been
2 selected by and trained under the requirements prescribed by the department
3 to provide protective services.

4 ~~10.~~ 9. "Vulnerable adult" means an individual who is eighteen years of
5 age or older AND who is unable to protect himself from abuse, neglect or
6 exploitation by others because of a physical or mental impairment.
7 VULNERABLE ADULT INCLUDES AN INCAPACITATED PERSON AS DEFINED IN SECTION
8 14-5101.

9 B. Protective services programs shall seek to maintain the adult in
10 his familiar environment by strengthening his capacity for self-maintenance
11 or by providing supportive services.

12 C. Nothing in this section shall be construed to mean that an adult is
13 abused, neglected or in need of protective services for the sole reason that
14 he relies on treatment from a recognized religious method of healing in lieu
15 of medical treatment.

16 D. A written expression pursuant to subsection A, paragraph ~~6~~ 5,
17 subdivision (a) of this section is valid only if the person is of sound mind
18 when the consent is made and if the consent is witnessed by at least two
19 individuals who do not benefit by the withdrawal of services.

20 Sec. 5. Section 46-452, Arizona Revised Statutes, is amended to read:

21 ~~46-452.~~ Protective services worker; powers and duties

22 A. A protective services worker shall:

23 1. Receive reports of abused, exploited or neglected ~~incapacitated or~~
24 vulnerable adults.

25 2. Receive from any source oral or written information regarding an
26 adult who may be in need of protective services.

27 3. Upon receipt of such information make an evaluation to determine if
28 the adult is in need of protective services and what services, if any, are
29 needed.

30 4. Offer an adult in need of protective services or his guardian
31 whatever services appear appropriate in view of the evaluation.

1 5. File petitions as necessary for the appointment of a guardian or
2 conservator or the appointment of a temporary guardian or temporary
3 conservator or make application for a special visitation warrant as provided
4 for in title 14, chapter 5.

5 B. The department or a protective services worker employed by the
6 department may not be appointed as guardian, conservator or temporary
7 guardian.

8 C. An adult protective services worker is immune from civil liability
9 for applying for a special visitation warrant or for filing a petition for
10 guardianship or conservatorship unless the application or filing is done in
11 bad faith.

12 Sec. 6. Section 46-453, Arizona Revised Statutes, is amended to read:
13 46-453. Immunity of participants; nonprivileged communication

14 A. Any person making a complaint, furnishing a report, information or
15 records required or authorized by this chapter or otherwise participating in
16 the program authorized by this chapter or in a judicial or administrative
17 proceeding or investigation resulting from reports, information or records
18 submitted or obtained pursuant to this chapter is immune from any civil or
19 criminal liability by reason of such action, unless the person acted with
20 malice or unless such person has been charged with or is suspected of
21 abusing, exploiting or neglecting the ~~incapacitated or~~ vulnerable adult in
22 question. Except as provided in subsection B of this section the
23 physician-patient privilege, husband-wife privilege or any privilege except
24 the attorney-client privilege, provided for by professions such as the
25 practice of social work or nursing covered by law or a code of ethics
26 regarding practitioner-client confidences, both as they relate to the
27 competency of the witness and to the exclusion of confidential
28 communications, shall not pertain in any civil or criminal litigation in
29 which ~~an incapacitated or~~ A vulnerable adult's exploitation, abuse or neglect
30 is an issue nor in any judicial or administrative proceeding resulting from a
31 report, information or records submitted or obtained pursuant to section
32 46-454 nor in any investigation of ~~an incapacitated or~~ A vulnerable adult's

1 exploitation, abuse or neglect conducted by a peace officer or a protective
2 services worker.

3 B. In any civil or criminal litigation in which incapacitation, abuse,
4 exploitation or neglect of ~~an incapacitated or~~ A vulnerable adult is an
5 issue, a clergyman or priest shall not, without his consent, be examined as a
6 witness concerning any confession made to him in his role as a clergyman or a
7 priest in the course of the discipline enjoined by the church to which he
8 belongs.

9 Sec. 7. Section 46-454, Arizona Revised Statutes, is amended to read:

10 46-454. Duty to report abuse, neglect and exploitation of
11 vulnerable adults; duty to make medical records
12 available; violation; classification

13 A. A physician, registered nurse practitioner, hospital intern or
14 resident, surgeon, dentist, psychologist, social worker, peace officer or
15 other person who has responsibility for the care of ~~an incapacitated or~~ A
16 vulnerable adult and who has a reasonable basis to believe that abuse or
17 neglect of the adult has occurred or that exploitation of the adult's
18 property has occurred shall immediately report or cause reports to be made of
19 such reasonable basis to a peace officer or to a protective services worker.
20 The guardian or conservator of ~~an incapacitated or~~ A vulnerable adult shall
21 immediately report or cause reports to be made of such reasonable basis to
22 the superior court. All of the above reports shall be made immediately in
23 person or by telephone and shall be followed by a written report mailed or
24 delivered within forty-eight hours or on the next working day if the
25 forty-eight hours expire on a weekend or holiday.

26 B. An attorney, accountant, trustee, guardian, conservator or other
27 person who has responsibility for preparing the tax records of ~~an~~
28 ~~incapacitated or~~ A vulnerable adult or a person who has responsibility for
29 any other action concerning the use or preservation of the ~~incapacitated or~~
30 vulnerable adult's property and who, in the course of fulfilling that
31 responsibility, discovers a reasonable basis to believe that exploitation of
32 the adult's property has occurred or that abuse or neglect of the adult has

1 occurred shall immediately report or cause reports to be made of such
2 reasonable basis to a peace officer, to a protective services worker or to
3 the public fiduciary of the county in which the ~~incapacitated or~~ vulnerable
4 adult resides. If the public fiduciary is unable to investigate the contents
5 of a report, the public fiduciary shall immediately forward the report to a
6 protective services worker. If a public fiduciary investigates a report and
7 determines that the matter is outside the scope of action of a public
8 fiduciary, then the report shall be immediately forwarded to a protective
9 services worker. All of the above reports shall be made immediately in
10 person or by telephone and shall be followed by a written report mailed or
11 delivered within forty-eight hours or on the next working day if the
12 forty-eight hours expire on a weekend or holiday.

13 C. Reports pursuant to subsections A and B shall contain:

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

16 2. The adult's age and the nature and extent of ~~incapacity or~~ THE
17 ADULT'S vulnerability.

18 3. The nature and extent of the adult's injuries or physical neglect
19 or of the exploitation of the adult's property.

20 4. Any other information that the person reporting believes might be
21 helpful in establishing the cause of the adult's injuries or physical neglect
22 or of the exploitation of the adult's property.

23 D. Any person other than one required to report or cause reports to be
24 made in subsection A who has a reasonable basis to believe that abuse or
25 neglect of ~~an incapacitated or~~ A vulnerable adult has occurred may report the
26 information to a peace officer or to a protective services worker.

27 E. A person having custody or control of medical or financial records
28 of ~~an incapacitated or~~ A vulnerable adult for whom a report is required or
29 authorized under this section shall make such records, or a copy of such
30 records, available to a peace officer or adult protective services worker
31 investigating the ~~incapacitated or~~ vulnerable adult's neglect, exploitation
32 or abuse on written request for the records signed by the peace officer or

1 adult protective services worker. Records disclosed pursuant to this
2 subsection are confidential and may be used only in a judicial or
3 administrative proceeding or investigation resulting from a report required
4 or authorized under this section.

5 F. If reports pursuant to this section are received by a peace
6 officer, the peace officer shall notify the adult protective services of the
7 department of economic security as soon as possible and make such information
8 available to them.

9 G. A person required to receive reports pursuant to subsection A, B or
10 D may take or cause to be taken photographs of the abused adult and the
11 vicinity involved. Medical examinations including radiological examinations
12 of the involved adult may be performed. Accounts, inventories or audits of
13 the exploited adult's property may be performed. The person, department,
14 agency, ~~or~~ or court that initiates such photographs, examinations, accounts,
15 inventories or audits shall pay the associated costs in accordance with
16 existing statutes and rules. If any person is found to be responsible for
17 the abuse, neglect or exploitation of ~~an incapacitated or~~ A vulnerable adult
18 in a criminal or civil action, the court may order the person to make
19 restitution as the court deems appropriate.

20 H. If psychiatric records are requested pursuant to subsection E, the
21 custodian of the records shall notify the attending psychiatrist, who may
22 excise from the records, before they are made available:

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

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

28 I. If any portion of a psychiatric record is excised pursuant to
29 subsection H, a court, upon application of a peace officer or adult
30 protective services worker, may order that the entire record or any portion
31 of such record containing information relevant to the reported abuse or

1 neglect be made available to the peace officer or adult protective services
2 worker investigating the abuse or neglect.

3 J. A licensing agency shall not find that a reported incidence of
4 abuse at a care facility by itself is sufficient grounds to permit the agency
5 to close the facility or to find that all residents are in imminent danger.

6 K. A person who violates any provision of this section is guilty of a
7 class 1 misdemeanor.

8 Sec. 8. Section 46-455, Arizona Revised Statutes, is amended to read:

9 46-455. Permitting life or health of a vulnerable adult to be
10 endangered by neglect; violation; classification;
11 civil remedy; definition

12 A. A person who has been employed to provide care, who is a de facto
13 guardian or de facto conservator or who has been appointed by a court to
14 provide care to ~~an incapacitated or~~ A vulnerable adult and who causes or
15 permits the life of the adult to be endangered or that person's health to be
16 injured or endangered by neglect is guilty of a class 5 felony.

17 B. ~~An incapacitated or~~ A vulnerable adult whose life or health is
18 being or has been endangered or injured by neglect, abuse or exploitation may
19 file an action in superior court against any person or enterprise that has
20 been employed to provide care, that has assumed a legal duty to provide care
21 or that has been appointed by a court to provide care to such ~~incapacitated~~
22 ~~or~~ vulnerable adult for having caused or permitted such conduct. A physician
23 licensed pursuant to title 32, chapter 13 or 17, a podiatrist licensed
24 pursuant to title 32, chapter 7, a registered nurse practitioner licensed
25 pursuant to title 32, chapter 15 or a physician assistant licensed pursuant
26 to title 32, chapter 25, while providing services within the scope of that
27 person's licensure, is not subject to civil liability for damages under this
28 section unless either:

29 1. At the time of the events giving rise to a cause of action under
30 this section, the person was employed or retained by the facility or
31 designated by the facility, with the consent of the person, to serve the
32 function of medical director as that term is defined or used by federal or

1 state law governing a nursing care institution, an assisted living center, an
2 assisted living facility, an assisted living home, an adult day health care
3 facility, a residential care institution, an adult care home, a skilled
4 nursing facility or a nursing facility.

5 2. At the time of the events giving rise to a cause of action under
6 this section, all of the following applied:

7 (a) The person was a physician licensed pursuant to title 32, chapter
8 13 or 17, a podiatrist licensed pursuant to title 32, chapter 7, a registered
9 nurse practitioner licensed pursuant to title 32, chapter 15 or a physician
10 assistant licensed pursuant to title 32, chapter 25.

11 (b) The person was the primary provider responsible for the medical
12 services to the patient while the patient was at one of the facilities listed
13 in paragraph 1 of this subsection.

14 C. Any person who was the primary provider of medical services to the
15 patient in the last two years before it was recommended that the patient be
16 admitted to one of the facilities listed in subsection B, paragraph 1 of this
17 section is exempt from civil liability for damages under this section.

18 D. For the purposes of this section, primary provider does not include
19 a consultant or specialist as listed in subsection B, paragraph 2,
20 subdivision (a) of this section who is requested by the primary provider to
21 provide care to the patient for whom the primary provider is responsible,
22 unless that consultant or specialist assumes the primary care of the patient.

23 E. The state may file an action pursuant to this section on behalf of
24 those persons endangered or injured to prevent, restrain or remedy the
25 conduct described in this section.

26 F. The superior court has jurisdiction to prevent, restrain and remedy
27 the conduct described in this section, after making provision for the rights
28 of all innocent persons affected by such conduct and after a hearing or
29 trial, as appropriate, by issuing appropriate orders.

30 G. Before a determination of liability, the orders may include, but
31 are not limited to, entering restraining orders or temporary injunctions or
32 taking such other actions, including the acceptance of satisfactory

1 performance bonds, the creation of receiverships and the appointment of
2 qualified receivers and the enforcement of constructive trusts, as the court
3 deems proper.

4 H. After a determination of liability such orders may include, but are
5 not limited to:

6 1. Ordering any person to divest himself of any direct or indirect
7 interest in any enterprise.

8 2. Imposing reasonable restrictions, including permanent injunctions,
9 on the future activities or investments of any person including prohibiting
10 any person from engaging in the same type of endeavor or conduct to the
11 extent permitted by the constitutions of the United States and this state.

12 3. Ordering dissolution or reorganization of any enterprise.

13 4. Ordering the payment of actual and consequential damages, as well
14 as costs of suit and reasonable attorney fees, to those persons injured by
15 the conduct described in this section. The court or jury may order the
16 payment of punitive damages under common law principles that are generally
17 applicable to the award of punitive damages in other civil actions. The
18 court may order the payment of reasonable attorney fees that do not exceed
19 two times the total amount of compensatory damages that are awarded in the
20 action, except that the court may award additional attorney fees in
21 connection with the action after the court has reviewed and approved a
22 request for additional attorney fees to the plaintiff.

23 5. Ordering the payment of all costs and expenses of the prosecution
24 and investigation of the conduct described in this section, civil and
25 criminal, incurred by the state or county as appropriate to be paid to the
26 general fund of this state or the county that incurred such costs and
27 expenses.

28 I. A defendant convicted in any criminal proceeding is precluded from
29 subsequently denying the essential allegations of the criminal offense of
30 which he was convicted in any civil proceeding. For the purposes of this
31 subsection, a conviction may result from a verdict or plea, including a plea
32 of no contest.

1 J. A person who files an action under this section shall serve notice
2 and one copy of the pleading on the attorney general within thirty days after
3 the action is filed with the superior court. The notice shall identify the
4 action, the person and the person's attorney. Service of the notice does not
5 limit or otherwise affect the right of this state to maintain an action under
6 this section or intervene in a pending action nor does it authorize the
7 person to name this state or the attorney general as a party to the action.
8 Upon receipt of a complaint the attorney general shall notify the appropriate
9 licensing agency.

10 K. The initiation of civil proceedings pursuant to this section shall
11 be commenced within two years after actual discovery of the cause of action.

12 L. Except for the standard of proof provided in subsection H,
13 paragraph 4 of this section, the standard of proof in civil actions brought
14 pursuant to this section is the preponderance of the evidence.

15 M. Except in cases filed by a county attorney, the attorney general,
16 upon timely application, may intervene in any civil action or proceeding
17 brought under this section if the attorney general certifies that in his
18 opinion the action is of special public importance. Upon intervention, the
19 attorney general may assert any available claim and is entitled to the same
20 relief as if the attorney general had instituted a separate action.

21 N. In addition to the state's right to intervene as a party in any
22 action under this section, the attorney general may appear as a friend of the
23 court in any proceeding in which a claim under this section has been asserted
24 or in which a court is interpreting section 46-453 or this section.

25 O. A civil action authorized by this section is remedial and not
26 punitive and does not limit and is not limited by any other civil remedy or
27 criminal action or any other provision of law. Civil remedies provided under
28 this title are supplemental and not mutually exclusive.

29 P. The cause of action or the right to bring a cause of action
30 pursuant to subsection B or E of this section shall not be limited or
31 affected by the death of the ~~incapacitated or~~ vulnerable adult.

1 Q. For the purposes of this section, "enterprise" means any
2 corporation, partnership, association, labor union, ~~or~~ or other legal entity,
3 or any group of persons associated in fact although not a legal entity, ~~which~~
4 THAT is involved with providing care to ~~an incapacitated or~~ A vulnerable
5 adult."

6 Renumber to conform

7 Page 3, line 40, strike "an incapacitated or" insert "a"

8 Line 41, strike "and criminal"

9 Lines 43 and 44, strike "an incapacitated or" insert "A"

10 Page 4, strike line 1, insert "VULNERABLE ADULT'S ASSETS SOLELY FOR THE BENEFIT OF
11 THE"

12 Line 2, strike "ADULT'S BEST INTEREST" insert "ADULT"

13 Line 3, strike "INCAPACITATED OR"

14 Lines 6 and 7, strike "GENERAL OR NONGENERAL" insert "DURABLE"

15 Line 9, strike "INCAPACITATED OR"; after the period strike remainder of line

16 Strike lines 10 through 31

17 Reletter to conform

18 Line 32, strike "or B"; after "~~is~~" insert "OR SECTION 13-1802, SUBSECTION B"

19 Line 33, strike "an"

20 Line 34, strike "incapacitated or" insert "A"

21 Line 37, strike "C" insert "B"

22 Line 39, strike "or B"

23 Line 40, after "~~forfeits~~" insert "OR SECTION 13-1802, SUBSECTION B"

24 Lines 41 and 44, strike "incapacitated or"

25 Line 45, strike "INCAPACITATED OR"

26 Page 5, line 2, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802,
27 SUBSECTION B"

28 Line 7, strike "INCAPACITATED OR"

29 Line 8, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802, SUBSECTION B"

30 Line 9, strike "INCAPACITATED OR"

31 Line 11, strike "OR B"

32 Line 12, after "SECTION" insert "OR SECTION 13-1802, SUBSECTION B"

- 1 Page 5, line 13, strike "INCAPACITATED OR"
- 2 Line 15, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802,
3 SUBSECTION B"
- 4 Line 18, strike "INCAPACITATED OR"
- 5 Line 19, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802,
6 SUBSECTION B"
- 7 Line 22, strike "INCAPACITATED OR"
- 8 Lines 23 and 25, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802,
9 SUBSECTION B"
- 10 Line 28, strike "D" insert "C"
- 11 Line 31, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802,
12 SUBSECTION B"
- 13 Line 36, strike "D" insert "C"
- 14 Lines 38 and 41, strike "OR B"; after "SECTION" insert "OR SECTION 13-1802,
15 SUBSECTION B"
- 16 Lines 44 and 45, strike "INCAPACITATED OR"
- 17 Page 6, lines 2, 4, 6 and 7, strike "INCAPACITATED OR"
- 18 Line 9, after "A," insert "B,"
- 19 Between lines 17 and 18, insert:
- 20 "4. A HEALTH CARE INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4
21 THAT PROVIDES SERVICES TO THE VULNERABLE ADULT."
- 22 Page 7, line 10, strike "incapacitated or"
- 23 Line 11, strike "an incapacitated or" insert "A"
- 24 Lines 13 and 14, strike "an incapacitated or" insert "A"
- 25 Line 17, strike "INCAPACITATED OR"
- 26 Line 18, strike "SUPERIOR"
- 27 Line 21, strike "INCAPACITATED OR"
- 28 Line 24, after "A" strike remainder of line and insert "OF THIS SECTION OR
29 SECTION 13-1802, SUBSECTION B, WHETHER OR NOT THE"
- 30 Line 25, strike "OR"; strike "INCAPACITATED OR"
- 31 Line 26, strike "OR B"

1 Page 7, line 27, after "SECTION" insert "OR SECTION 13-1802, SUBSECTION B"; strike
2 "INCAPACITATED OR"

3 After line 28, insert:

4 "Sec. 10. Section 46-457, Arizona Revised Statutes, is amended to
5 read:

6 46-457. Elder abuse central registry; mandatory reporting;
7 release of information

8 A. A person who files an action under this article shall serve notice
9 and one copy of the pleading with the attorney general within thirty days
10 after the action is filed in the superior court. The notice shall identify
11 the action, the person against whom the civil complaint has been filed and
12 that person's attorney. The person who files an action is responsible for
13 submitting a report on the final disposition of the case within thirty days
14 after the final action is taken.

15 B. Except as otherwise provided in this subsection, a state agency
16 other than adult protective services that renders an administrative decision
17 that substantiates the allegation of abuse or that files a civil action that
18 alleges abuse, neglect or financial exploitation pursuant to this article or
19 title 36 shall serve notice and one copy of the administrative decision or
20 pleading with the attorney general within thirty days after the
21 administrative decision is rendered or within thirty days after the action is
22 filed in the superior court. The agency is responsible for submitting a
23 report on the final disposition of the case within thirty days after the
24 final action is taken. Adult protective services shall report its findings
25 to the registry established pursuant to section 46-459. The department of
26 economic security shall not provide the notice prescribed in this subsection
27 for information maintained in the adult protective services registry pursuant
28 to section 46-459.

29 C. If the victim of the offense is ~~an incapacitated or~~ A vulnerable
30 adult, a person who files a criminal complaint or indictment involving a
31 violation of this article or section 13-1102, 13-1103, 13-1104, 13-1105,
32 13-1201, 13-1203, 13-1204, 13-1303, 13-1304, 13-1403, 13-1404, 13-1406,

1 13-1802, 13-1807, 13-2002, 13-2310 or 13-3623 shall submit a copy of the
2 criminal complaint or indictment to the attorney general within thirty days
3 after arraignment. Within thirty days of the date of issuance of the minute
4 entry the court shall endorse to the attorney general a copy of the
5 sentencing minute entry or the minute entry reflecting the case has been
6 dismissed or a judgment of acquittal has been entered. The attorney general
7 shall develop guidelines to implement this subsection.

8 D. The attorney general shall maintain a registry containing the names
9 of persons pursuant to subsection A, B or C of this section with the date the
10 action was filed with the superior court or the date the administrative
11 decision was rendered, the dates of the conduct set forth in the complaint,
12 the indictment or decision, the general nature of the complaint, indictment
13 or decision and the disposition of the complaint, indictment or decision, if
14 known.

15 E. The information maintained pursuant to subsection D of this section
16 is available to the public on written request to the custodian of the
17 registry.

18 F. A person may submit a written statement on that person's own behalf
19 to the custodian of the registry. The statement is part of the records for
20 distribution in response to all inquiries concerning that person.

21 G. A person or agency that distributes information in the registry in
22 good faith is not subject to civil or criminal liability."

23 Amend title to conform

LUCY MASON

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05/21/2009
9:40 AM
C: sp