

**(EMERGENCY NOT ENACTED BY THE SENATE)**

House Engrossed

care facilities; clergy visitation

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

# **HOUSE BILL 2449**

AN ACT

AMENDING TITLE 36, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 36-407.02; 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. Title 36, chapter 4, article 1, Arizona Revised  
3 Statutes, is amended by adding section 36-407.02, to read:

4 36-407.02. Health care institutions; clergy visitation;  
5 health and safety precautions; immunity; civil  
6 action; definitions

7 A. IF A HEALTH CARE INSTITUTION'S VISITATION POLICY ALLOWS  
8 IN-PERSON VISITATION OF ANY KIND, THE HEALTH CARE INSTITUTION MUST ALLOW A  
9 CLERGY MEMBER TO VISIT A RESIDENT WHO REQUESTS AN IN-PERSON VISIT OR  
10 CONSENTS TO BE VISITED IN PERSON FOR RELIGIOUS PURPOSES BY THE CLERGY  
11 MEMBER, INCLUDING DURING A DECLARED STATE OF EMERGENCY. IF A RESIDENT IS  
12 UNABLE, DUE TO DEMENTIA OR A SIMILAR COGNITIVE IMPAIRMENT, TO REQUEST AN  
13 IN-PERSON VISIT OR TO CONSENT TO BE VISITED IN PERSON BY A CLERGY MEMBER  
14 FOR RELIGIOUS PURPOSES, THE REQUEST OR CONSENT MUST BE MADE OR GIVEN BY  
15 THE RESIDENT'S LEGAL REPRESENTATIVE.

16 B. NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHAPTER, WHEN A  
17 RESIDENT'S DEATH IS IMMINENT, A HEALTH CARE INSTITUTION MUST ALLOW A  
18 CLERGY MEMBER TO VISIT THE RESIDENT IN PERSON FOR RELIGIOUS PURPOSES IF  
19 EITHER OF THE FOLLOWING APPLIES:

20 1. THE RESIDENT REQUESTS OR CONSENTS TO BE VISITED BY THE CLERGY  
21 MEMBER.

22 2. THE RESIDENT'S LEGAL REPRESENTATIVE REQUESTS THAT THE RESIDENT  
23 BE VISITED BY THE CLERGY MEMBER.

24 C. A HEALTH CARE INSTITUTION MAY REQUIRE CLERGY TO COMPLY WITH  
25 REASONABLE HEALTH AND SAFETY PRECAUTIONS, INCLUDING UNDERGOING HEALTH  
26 SCREENINGS AND WEARING PERSONAL PROTECTIVE EQUIPMENT, THAT ARE IMPOSED BY  
27 THE HEALTH CARE INSTITUTION IN CONNECTION WITH IN-PERSON VISITATION FOR  
28 PREVENTING THE SPREAD OF COMMUNICABLE DISEASES. IF SUCH A REQUIREMENT  
29 WOULD SUBSTANTIALLY BURDEN THE CLERGY MEMBER'S FREE EXERCISE OF RELIGION  
30 WHILE CARRYING OUT THE RELIGIOUS PURPOSE FOR WHICH THE CLERGY MEMBER IS  
31 VISITING WHILE WITH THE RESIDENT IN THE RESIDENT'S ROOM OR VISITING AREA  
32 DESIGNATED BY THE HEALTH CARE INSTITUTION, THE HEALTH CARE INSTITUTION MAY  
33 REQUIRE COMPLIANCE WITH SUCH PRECAUTIONS ONLY IF COMPLIANCE IN THAT  
34 INSTANCE FURTHERS A COMPELLING INTEREST AND THE HEALTH CARE INSTITUTION  
35 IMPOSES THE LEAST RESTRICTIVE BURDEN ON THE CLERGY MEMBER'S EXERCISE OF  
36 RELIGION. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A HEALTH  
37 CARE INSTITUTION MAY RESTRICT VISITS OF A CLERGY MEMBER WHO FAILS A HEALTH  
38 SCREENING MEASURE OR TESTS POSITIVE FOR A COMMUNICABLE DISEASE.

39 D. A HEALTH CARE INSTITUTION AND ITS EMPLOYEES AND CONTRACTORS ARE  
40 NOT LIABLE TO A PERSON VISITING A RESIDENT OR TO A RESIDENT OF THE HEALTH  
41 CARE INSTITUTION FOR CIVIL DAMAGES FOR INJURY OR DEATH DUE TO ACTUAL OR  
42 ALLEGED EXPOSURE TO A COMMUNICABLE DISEASE RESULTING FROM OR RELATED TO A  
43 VISITATION IN COMPLIANCE WITH THIS SECTION UNLESS IT IS PROVEN BY CLEAR  
44 AND CONVINCING EVIDENCE THAT THE HEALTH CARE INSTITUTION FAILED TO  
45 SUBSTANTIALLY COMPLY WITH THE HEALTH CARE INSTITUTION'S APPLICABLE HEALTH

1 AND SAFETY PRECAUTIONS. THE IMMUNITY PRESCRIBED IN THIS SUBSECTION DOES  
2 NOT APPLY TO ANY ACT OR OMISSION UNLESS THERE IS CLEAR AND CONVINCING  
3 EVIDENCE THAT THE ACT OR OMISSION CONSTITUTES GROSS NEGLIGENCE OR WILFUL  
4 OR WANTON MISCONDUCT.

5 E. A PERSON OR RELIGIOUS ORGANIZATION MAY BRING A CIVIL ACTION  
6 AGAINST A HEALTH CARE INSTITUTION ALLEGING A VIOLATION OF THIS SECTION.  
7 ANY PERSON THAT SUCCESSFULLY ASSERTS A CLAIM OR DEFENSE UNDER THIS SECTION  
8 MAY RECOVER DECLARATORY RELIEF, INJUNCTIVE RELIEF, REASONABLE ATTORNEY  
9 FEES AND COSTS AND ANY OTHER APPROPRIATE RELIEF.

10 F. FOR THE PURPOSES OF THIS SECTION:

11 1. "HEALTH CARE INSTITUTION" HAS THE SAME MEANING PRESCRIBED IN  
12 SECTION 36-420.

13 2. "RESIDENT" MEANS A PERSON LIVING AT OR RECEIVING INPATIENT  
14 SERVICES FROM A HEALTH CARE INSTITUTION.

15 (EMERGENCY NOT ENACTED)

16 Sec. 2. Emergency

17 This act is an emergency measure that is necessary to preserve the  
18 public peace, health or safety and is operative immediately as provided by  
19 law.