CHAPTER 379

HOUSE BILL 2397

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 46-451, Arizona Revised Statutes, is amended to read:

46-451. Definitions; program goals
A. In this chapter, unless the context otherwise requires:
1. "Abuse" means:
   (a) Intentional infliction of physical harm.
   (b) Injury caused by negligent acts or omissions.
   (c) Unreasonable confinement.
   (d) Sexual abuse or sexual assault.
   (e) EMOTIONAL ABUSE.
2. "Adult protective services central intake unit" means a unit of specialized staff within adult protective services that is responsible for receiving reports of alleged abuse, neglect or exploitation of vulnerable adults or making the necessary resource referrals.
3. "De facto conservator" means any person who takes possession of the estate of a vulnerable adult, without right or lawful authority. A de facto conservator is subject to all of the responsibilities that attach to a legally appointed conservator or trustee.
4. "De facto guardian" means any person who takes possession of the person of a vulnerable adult, without right or lawful authority. A de facto guardian is subject to all of the responsibilities that attach to a legally appointed guardian.
5. "EMOTIONAL ABUSE" MEANS A PATTERN OF RIDICULING OR DEMEANING A VULNERABLE ADULT, MAKING DEROGATORY REMARKS TO A VULNERABLE ADULT, VERBALLY HARASSING A VULNERABLE ADULT OR THREATENING TO INFlict PHYSICAL OR EMOTIONAL HARM ON A VULNERABLE ADULT.
6. "Exploitation" means the illegal or improper use of a vulnerable adult or the vulnerable adult's resources for another's profit or advantage.
7. "Health professional" has the same meaning prescribed in section 32-3201.
8. "Informed consent" means any of the following:
   (a) A written expression by the person that the person fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health and that the person desires that the services be withdrawn. A written expression is valid only if the person is of sound mind and if the consent is witnessed by at least two individuals who do not benefit by the withdrawal of services.
   (b) Consent to withdraw food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health as permitted by an order of a court of competent jurisdiction.
(c) A declaration made pursuant to title 36, chapter 32.
(d) Consent by another person under a durable power of attorney
relating to health care services to withdraw food, water, medication,
medical services, shelter, cooling, heating or other services necessary to
maintain minimum physical or mental health.

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

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

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

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

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

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

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

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

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

APPROVED BY THE GOVERNOR JULY 6, 2022.