

REFERENCE TITLE: care facilities; clergy visitation

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

## **HB 2449**

Introduced by

Representatives Nguyen: Barton, Biasiucci, Blackman, Bolick, Bowers,  
Borges, Carroll, Carter, Chaplik, Cobb, Cook, Diaz, Fillmore, Grantham,  
Griffin, Hoffman, John, Kaiser, Martinez, Parker, Payne, Pingerelli, Toma,  
Weninger, Wilmeth, Senators Boyer, Kerr

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. Care facilities; clergy visitation; health and  
5 safety precautions; immunity; civil action;  
6 definitions

7 A. IF A CARE FACILITY VISITATION POLICY ALLOWS IN-PERSON VISITATION  
8 OF ANY KIND, THE CARE FACILITY MUST ALLOW A CLERGY MEMBER TO VISIT A  
9 PATIENT WHO REQUESTS AN IN-PERSON VISIT OR CONSENTS TO BE VISITED IN  
10 PERSON FOR RELIGIOUS PURPOSES BY THE CLERGY MEMBER, INCLUDING DURING A  
11 DECLARED STATE OF EMERGENCY.

12 B. NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHAPTER, WHEN A  
13 PATIENT'S DEATH IS IMMINENT, A CARE FACILITY MUST ALLOW A CLERGY MEMBER TO  
14 VISIT THE PATIENT IN PERSON FOR RELIGIOUS PURPOSES IF EITHER OF THE  
15 FOLLOWING APPLIES:

16 1. THE PATIENT REQUESTS OR CONSENTS TO BE VISITED BY THE CLERGY  
17 MEMBER.

18 2. THE PATIENT'S REPRESENTATIVE REQUESTS THAT THE PATIENT BE  
19 VISITED BY THE CLERGY MEMBER.

20 C. A CARE FACILITY MAY REQUIRE CLERGY TO COMPLY WITH REASONABLE  
21 HEALTH AND SAFETY PRECAUTIONS, INCLUDING UNDERGOING HEALTH SCREENINGS AND  
22 WEARING PERSONAL PROTECTIVE EQUIPMENT, THAT ARE IMPOSED BY THE CARE  
23 FACILITY IN CONNECTION WITH IN-PERSON VISITATION FOR PREVENTING THE SPREAD  
24 OF COMMUNICABLE DISEASES. IF SUCH A REQUIREMENT WOULD SUBSTANTIALLY  
25 BURDEN THE CLERGY'S FREE EXERCISE OF RELIGION, THE CARE FACILITY MAY  
26 REQUIRE COMPLIANCE WITH SUCH PRECAUTIONS ONLY IF COMPLIANCE IN THAT  
27 INSTANCE FURTHERS A COMPELLING INTEREST AND THE CARE FACILITY IMPOSES THE  
28 LEAST RESTRICTIVE BURDEN ON THE CLERGY'S EXERCISE OF RELIGION.  
29 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, A CARE FACILITY MAY  
30 RESTRICT VISITS OF A CLERGY MEMBER WHO FAILS A HEALTH SCREENING MEASURE OR  
31 TESTS POSITIVE FOR A COMMUNICABLE DISEASE.

32 D. A CARE FACILITY AND ITS EMPLOYEES AND CONTRACTORS ARE NOT LIABLE  
33 TO A PERSON VISITING A PATIENT OR TO A PATIENT OF THE CARE FACILITY FOR  
34 CIVIL DAMAGES FOR INJURY OR DEATH DUE TO ACTUAL OR ALLEGED EXPOSURE TO A  
35 COMMUNICABLE DISEASE RESULTING FROM OR RELATED TO A VISITATION IN  
36 COMPLIANCE WITH THIS SECTION UNLESS THE CARE FACILITY FAILS TO  
37 SUBSTANTIALLY COMPLY WITH THE CARE FACILITY'S APPLICABLE HEALTH AND SAFETY  
38 PRECAUTIONS. THE IMMUNITY PRESCRIBED IN THIS SUBSECTION DOES NOT APPLY TO  
39 ANY ACT OR OMISSION THAT CONSTITUTES GROSS NEGLIGENCE OR WILFUL OR WANTON  
40 MISCONDUCT.

41 E. A PERSON OR RELIGIOUS ORGANIZATION MAY BRING A CIVIL ACTION  
42 AGAINST A CARE FACILITY ALLEGING A VIOLATION OF THIS SECTION. ANY PERSON  
43 THAT SUCCESSFULLY ASSERTS A CLAIM OR DEFENSE UNDER THIS SECTION MAY  
44 RECOVER DECLARATORY RELIEF, INJUNCTIVE RELIEF, COMPENSATORY DAMAGES,  
45 REASONABLE ATTORNEY FEES AND COSTS AND ANY OTHER APPROPRIATE RELIEF.

1 F. FOR THE PURPOSES OF THIS SECTION:

2 1. "CARE FACILITY" MEANS AN ASSISTED LIVING CENTER, AN ASSISTED  
3 LIVING FACILITY, AN ASSISTED LIVING HOME, HOSPICE, A NURSING CARE  
4 INSTITUTION OR A RESIDENTIAL CARE INSTITUTION THAT IS LICENSED PURSUANT TO  
5 THIS CHAPTER.

6 2. "PATIENT" MEANS A PERSON LIVING AT OR RECEIVING INPATIENT  
7 SERVICES FROM A CARE FACILITY.

8 Sec. 2. Emergency

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