

REFERENCE TITLE: health care workers; assault; prevention

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

## **HB 2635**

Introduced by  
Representatives Shah: Biasiucci, Blackman, Bolick, Chávez, Cobb, Espinoza,  
Hernandez D, Kavanagh, Longdon, Nguyen, Osborne, Sierra, Toma, Udall,  
Wilmeth

AN ACT

AMENDING SECTION 13-1204, ARIZONA REVISED STATUTES; AMENDING TITLE 36,  
CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION  
36-420.02; RELATING TO HEALTH CARE WORKERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 13-1204, Arizona Revised Statutes, is amended to  
3 read:  
4 13-1204. Aggravated assault; classification; definitions  
5 A. A person commits aggravated assault if the person commits  
6 assault as prescribed by section 13-1203 under any of the following  
7 circumstances:  
8 1. If the person causes serious physical injury to another.  
9 2. If the person uses a deadly weapon or dangerous instrument.  
10 3. If the person commits the assault by any means of force that  
11 causes temporary but substantial disfigurement, temporary but substantial  
12 loss or impairment of any body organ or part or a fracture of any body  
13 part.  
14 4. If the person commits the assault while the victim is bound or  
15 otherwise physically restrained or while the victim's capacity to resist  
16 is substantially impaired.  
17 5. If the person commits the assault after entering the private  
18 home of another with the intent to commit the assault.  
19 6. If the person is eighteen years of age or older and commits the  
20 assault on a minor under fifteen years of age.  
21 7. If the person commits assault as prescribed by section 13-1203,  
22 subsection A, paragraph 1 or 3 and the person is in violation of an order  
23 of protection issued against the person pursuant to section 13-3602 or  
24 13-3624.  
25 8. If the person commits the assault knowing or having reason to  
26 know that the victim is any of the following:  
27 (a) A peace officer or a person summoned and directed by the  
28 officer.  
29 (b) A constable or a person summoned and directed by the constable  
30 while engaged in the execution of any official duties or if the assault  
31 results from the execution of the constable's official duties.  
32 (c) A firefighter, fire investigator, fire inspector, emergency  
33 medical technician or paramedic engaged in the execution of any official  
34 duties or a person summoned and directed by such individual while engaged  
35 in the execution of any official duties or if the assault results from the  
36 execution of the official duties of the firefighter, fire investigator,  
37 fire inspector, emergency medical technician or paramedic.  
38 (d) A teacher or other person employed by any school and the  
39 teacher or other employee is on the grounds of a school or grounds  
40 adjacent to the school or is in any part of a building or vehicle used for  
41 school purposes, any teacher or school nurse visiting a private home in  
42 the course of the teacher's or nurse's professional duties or any teacher  
43 engaged in any authorized and organized classroom activity held on other  
44 than school grounds.

1 (e) A HEALTH CARE WORKER WHILE ENGAGED IN THE HEALTH CARE WORKER'S  
2 WORK DUTIES OR A health care practitioner who is certified or licensed  
3 pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and  
4 directed by the licensed health care practitioner while engaged in the  
5 person's professional duties. This subdivision does not apply if the  
6 person who commits the assault DOES NOT HAVE THE ABILITY TO FORM THE  
7 CULPABLE MENTAL STATE BECAUSE OF A MENTAL DISABILITY OR BECAUSE THE PERSON  
8 is seriously mentally ill, as defined in section 36-550, ~~or is afflicted~~  
9 ~~with alzheimer's disease or related dementia.~~

10 (f) A prosecutor while engaged in the execution of any official  
11 duties or if the assault results from the execution of the prosecutor's  
12 official duties.

13 (g) A code enforcement officer as defined in section 39-123 while  
14 engaged in the execution of any official duties or if the assault results  
15 from the execution of the code enforcement officer's official duties.

16 (h) A state or municipal park ranger while engaged in the execution  
17 of any official duties or if the assault results from the execution of the  
18 park ranger's official duties.

19 (i) A public defender while engaged in the execution of any  
20 official duties or if the assault results from the execution of the public  
21 defender's official duties.

22 (j) A judicial officer while engaged in the execution of any  
23 official duties or if the assault results from the execution of the  
24 judicial officer's official duties.

25 9. If the person knowingly takes or attempts to exercise control  
26 over any of the following:

27 (a) A peace officer's or other officer's firearm and the person  
28 knows or has reason to know that the victim is a peace officer or other  
29 officer employed by one of the agencies listed in paragraph 10,  
30 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

31 (b) Any weapon other than a firearm that is being used by a peace  
32 officer or other officer or that the officer is attempting to use, and the  
33 person knows or has reason to know that the victim is a peace officer or  
34 other officer employed by one of the agencies listed in paragraph 10,  
35 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

36 (c) Any implement that is being used by a peace officer or other  
37 officer or that the officer is attempting to use, and the person knows or  
38 has reason to know that the victim is a peace officer or other officer  
39 employed by one of the agencies listed in paragraph 10, subdivision (a),  
40 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes  
41 of this subdivision, "implement" means an object that is designed for or  
42 that is capable of restraining or injuring an individual. Implement does  
43 not include handcuffs.

1           10. If the person meets both of the following conditions:  
2           (a) Is imprisoned or otherwise subject to the custody of any of the  
3 following:  
4           (i) The state department of corrections.  
5           (ii) The department of juvenile corrections.  
6           (iii) A law enforcement agency.  
7           (iv) A county or city jail or an adult or juvenile detention  
8 facility of a city or county.  
9           (v) Any other entity that is contracting with the state department  
10 of corrections, the department of juvenile corrections, a law enforcement  
11 agency, another state, any private correctional facility, a county, a city  
12 or the federal bureau of prisons or other federal agency that has  
13 responsibility for sentenced or unsentenced prisoners.  
14           (b) Commits an assault knowing or having reason to know that the  
15 victim is acting in an official capacity as an employee of any of the  
16 entities listed in subdivision (a) of this paragraph.  
17           11. If the person uses a simulated deadly weapon.  
18           B. A person commits aggravated assault if the person commits  
19 assault by either intentionally, knowingly or recklessly causing any  
20 physical injury to another person, intentionally placing another person in  
21 reasonable apprehension of imminent physical injury or knowingly touching  
22 another person with the intent to injure the person, and both of the  
23 following occur:  
24           1. The person intentionally or knowingly impedes the normal  
25 breathing or circulation of blood of another person by applying pressure  
26 to the throat or neck or by obstructing the nose and mouth either manually  
27 or through the use of an instrument.  
28           2. Any of the circumstances exists that are set forth in section  
29 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.  
30           C. A person who is convicted of intentionally or knowingly  
31 committing aggravated assault on a peace officer pursuant to subsection A,  
32 paragraph 1 or 2 of this section shall be sentenced to imprisonment for  
33 not less than the presumptive sentence authorized under chapter 7 of this  
34 title and is not eligible for suspension of sentence, commutation or  
35 release on any basis until the sentence imposed is served.  
36           D. It is not a defense to a prosecution for assaulting a peace  
37 officer or a mitigating circumstance that the peace officer was not on  
38 duty or engaged in the execution of any official duties.  
39           E. Except pursuant to subsections F and G of this section,  
40 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph  
41 9, subdivision (a) or paragraph 11 of this section is a class 3 felony  
42 except if the aggravated assault is a violation of subsection A, paragraph  
43 1 or 2 of this section and the victim is under fifteen years of age it is  
44 a class 2 felony punishable pursuant to section 13-705. Aggravated assault  
45 pursuant to subsection A, paragraph 3 or subsection B of this section is a

1 class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9,  
2 subdivision (b) or paragraph 10 of this section is a class 5 felony.  
3 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8 or  
4 paragraph 9, subdivision (c) of this section is a class 6 felony.

5 F. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of  
6 this section committed on a peace officer is a class 2 felony. Aggravated  
7 assault pursuant to subsection A, paragraph 3 of this section committed on  
8 a peace officer is a class 3 felony. Aggravated assault pursuant to  
9 subsection A, paragraph 8, subdivision (a) of this section committed on a  
10 peace officer is a class 5 felony unless the assault results in any  
11 physical injury to the peace officer, in which case it is a class 4  
12 felony.

13 G. Aggravated assault pursuant to:

14 1. Subsection A, paragraph 1 or 2 of this section is a class 2  
15 felony if committed on a prosecutor.

16 2. Subsection A, paragraph 3 of this section is a class 3 felony if  
17 committed on a prosecutor.

18 3. Subsection A, paragraph 8, subdivision (f) of this section is a  
19 class 5 felony if the assault results in physical injury to a prosecutor.

20 H. For the purposes of this section:

21 1. "HEALTH CARE WORKER" MEANS:

22 (a) A PERSON WHO IS EMPLOYED BY OR CONTRACTED TO WORK AT A HEALTH  
23 CARE INSTITUTION THAT IS LICENSED PURSUANT TO TITLE 36.

24 (b) A PERSON WHO IS EMPLOYED OR CONTRACTED TO PROVIDE HEALTH CARE  
25 OR RELATED SERVICES IN A FIELD WORK SETTING, INCLUDING:

26 (i) HOME HEALTH CARE, HOME-BASED HOSPICE AND HOME-BASED SOCIAL  
27 WORK, UNLESS THE WORKER IS EMPLOYED OR CONTRACTED BY AN INDIVIDUAL WHO  
28 PRIVATELY EMPLOYS, IN THE INDIVIDUAL'S RESIDENCE, THE WORKER TO PERFORM  
29 COVERED SERVICES FOR THE INDIVIDUAL OR A FAMILY MEMBER OF THE INDIVIDUAL.

30 (ii) ANY EMERGENCY SERVICES AND TRANSPORT, INCLUDING THE SERVICES  
31 PROVIDED BY FIREFIGHTERS AND EMERGENCY RESPONDERS.

32 ~~1.~~ 2. "Judicial officer" means a justice of the supreme court,  
33 judge, justice of the peace or magistrate or a commissioner or hearing  
34 officer of a state, county or municipal court.

35 3. "MENTAL DISABILITY" MEANS A DISABLING NEUROLOGICAL CONDITION, OR  
36 BRAIN INJURY, OR INVOLUNTARY IMPAIRMENT AS A RESULT OF A MEDICATION THAT  
37 IS ADMINISTERED BY A HEALTH CARE PROVIDER OR A MEDICAL PROCEDURE THAT IS  
38 PERFORMED AT A HEALTH CARE TREATMENT SITE.

39 ~~2.~~ 4. "Prosecutor" means a county attorney, a municipal prosecutor  
40 or the attorney general and includes an assistant or deputy county  
41 attorney, municipal prosecutor or attorney general.

1           Sec. 2. Title 36, chapter 4, article 1, Arizona Revised Statutes,  
2 is amended by adding section 36-420.02, to read:

3           36-420.02. Health care employers; workplace violence  
4           prevention plan; investigation; reporting;  
5           nondiscrimination; definitions

6           A. NOT LATER THAN JULY 1, 2023, HEALTH CARE EMPLOYERS SHALL  
7 DEVELOP, IMPLEMENT AND MAINTAIN A WRITTEN WORKPLACE VIOLENCE PREVENTION  
8 PLAN THAT DOES ALL OF THE FOLLOWING:

9           1. INCLUDES COMPONENTS THAT ARE SPECIFICALLY TAILORED TO THE  
10 CONDITIONS AND HAZARDS OF THE HEALTH CARE EMPLOYER'S SITES AND  
11 PATIENT-SPECIFIC RISK FACTORS.

12           2. IDENTIFIES THE INDIVIDUAL WHO IS RESPONSIBLE FOR IMPLEMENTING  
13 AND OVERSEEING THE PLAN.

14           3. REQUIRES THE CONSPICUOUS POSTING OF SIGNS IN PUBLIC AREAS  
15 THROUGHOUT THE HEALTH CARE EMPLOYER'S SITES, INCLUDING ALL EMERGENCY  
16 FACILITIES, THAT ARE AT LEAST TWELVE INCHES BY TWELVE INCHES IN SIZE AND  
17 THAT PROVIDE NOTICE THAT ASSAULT ON A HEALTH CARE WORKER MAY BE PROSECUTED  
18 AS A FELONY.

19           4. INCLUDES REPORTING, INCIDENT RESPONSE AND POSTINCIDENT  
20 INVESTIGATION PROCEDURES, INCLUDING PROCEDURES:

21           (a) FOR HEALTH CARE WORKERS TO REPORT WORKPLACE VIOLENCE RISKS,  
22 HAZARDS AND INCIDENTS.

23           (b) FOR HEALTH CARE EMPLOYERS TO RESPOND TO REPORTS OF WORKPLACE  
24 VIOLENCE.

25           (c) FOR HEALTH CARE EMPLOYERS TO PERFORM A POSTINCIDENT  
26 INVESTIGATION AND DEBRIEFING OF ALL REPORTED INCIDENTS OF WORKPLACE  
27 VIOLENCE WITH THE PARTICIPATION OF HEALTH CARE WORKERS.

28           5. REQUIRES HEALTH CARE EMPLOYERS TO PROVIDE INFORMATION TO HEALTH  
29 CARE WORKERS ABOUT A WORKER'S ABILITY TO REPORT ANY ASSAULT TO LAW  
30 ENFORCEMENT AND, ON REQUEST, TO ASSIST THE WORKER IN REPORTING THE  
31 ASSAULT.

32           B. EACH HEALTH CARE EMPLOYER SHALL MAKE ITS WORKPLACE VIOLENCE  
33 PREVENTION PLAN AVAILABLE AT ALL TIMES TO ALL HEALTH CARE WORKERS AND  
34 CONTRACTORS WHO PROVIDE PATIENT CARE.

35           C. AS SOON AS PRACTICABLE AFTER A WORKPLACE VIOLENCE INCIDENT IS  
36 REPORTED TO THE HEALTH CARE EMPLOYER, THE HEALTH CARE EMPLOYER SHALL  
37 INVESTIGATE THE INCIDENT AND SHALL DO ALL OF THE FOLLOWING:

38           1. REVIEW THE CIRCUMSTANCES OF THE INCIDENT.

39           2. SOLICIT INPUT FROM INVOLVED HEALTH CARE WORKERS AND SUPERVISORS  
40 ABOUT THE CAUSE OF THE INCIDENT AND WHETHER FURTHER CORRECTIVE MEASURES  
41 COULD HAVE PREVENTED THE INCIDENT.

42           3. DOCUMENT THE FINDINGS, RECOMMENDATIONS AND CORRECTIVE MEASURES  
43 TAKEN, IF APPLICABLE, FOR EACH INVESTIGATION CONDUCTED.

1 D. EACH HEALTH CARE EMPLOYER SHALL PROVIDE TRAINING AND EDUCATION  
2 TO ITS HEALTH CARE WORKERS WHO MAY BE EXPOSED TO WORKPLACE VIOLENCE  
3 HAZARDS AND RISKS.

4 E. EACH HEALTH CARE EMPLOYER SHALL MAINTAIN:

5 1. RECORDS THAT RELATE TO EACH OF THE EMPLOYER'S WORKPLACE VIOLENCE  
6 PREVENTION PLANS, INCLUDING IDENTIFYING, EVALUATING AND CORRECTING HAZARDS  
7 AND RISKS AND TRAINING PROCEDURES.

8 2. AN INCIDENT LOG FOR RECORDING ALL REPORTED WORKPLACE VIOLENCE  
9 INCIDENTS AND RECORDS OF ALL INCIDENT INVESTIGATIONS. THE LOG SHALL  
10 INCLUDE THE DATE, TIME AND LOCATION OF THE INCIDENT, THE NAME OF EVERY  
11 PERSON WHO IS INVOLVED IN THE INCIDENT, A DESCRIPTION OF THE INCIDENT AND  
12 THE NATURE AND EXTENT OF INJURIES TO HEALTH CARE WORKERS.

13 F. THE HEALTH CARE EMPLOYER SHALL ANNUALLY EVALUATE THE  
14 IMPLEMENTATION AND EFFECTIVENESS OF THE WORKPLACE VIOLENCE PREVENTION  
15 PLAN, INCLUDING A REVIEW OF THE VIOLENT INCIDENT LOG AND COMPLIANCE WITH  
16 ANY TRAINING. THE ANNUAL EVALUATION SHALL BE DOCUMENTED.

17 G. THE HEALTH CARE EMPLOYER SHALL ADOPT A POLICY THAT PROHIBITS ANY  
18 PERSON FROM DISCRIMINATING OR RETALIATING AGAINST ANY HEALTH CARE WORKER  
19 FOR EITHER:

20 1. REPORTING TO OR SEEKING ASSISTANCE OR INTERVENTION FROM THE  
21 EMPLOYER, LAW ENFORCEMENT, LOCAL EMERGENCY SERVICES OR A GOVERNMENT AGENCY  
22 OR PARTICIPATING IN AN INCIDENT INVESTIGATION.

23 2. REASONABLY ACTING IN SELF DEFENSE OR DEFENSE OF OTHERS IN  
24 RESPONSE TO AN IMMINENT THREAT OF PHYSICAL HARM.

25 H. A HEALTH CARE EMPLOYER MAY NOT DISCRIMINATE OR RETALIATE AGAINST  
26 A HEALTH CARE WORKER FOR EITHER:

27 1. REPORTING TO OR SEEKING ASSISTANCE OR INTERVENTION FROM THE  
28 EMPLOYER, LAW ENFORCEMENT, LOCAL EMERGENCY SERVICES OR A GOVERNMENT AGENCY  
29 OR FOR EXERCISING ANY OTHER RIGHTS UNDER THIS SECTION.

30 2. REASONABLY ACTING IN SELF DEFENSE OR DEFENSE OF OTHERS IN  
31 RESPONSE TO AN IMMINENT THREAT OF PHYSICAL HARM.

32 I. THIS SECTION DOES NOT AFFECT THE LEGAL OBLIGATIONS OF A HEALTH  
33 CARE EMPLOYER AND HEALTH CARE WORKER PURSUANT TO THE PROTECTION OF  
34 PATIENTS' RIGHTS.

35 J. THIS SECTION DOES NOT APPLY TO THE ARIZONA STATE HOSPITAL OR ANY  
36 OTHER LICENSED FACILITY THAT IS UNDER THE JURISDICTION OF THE  
37 SUPERINTENDENT OF THE ARIZONA STATE HOSPITAL.

38 K. FOR THE PURPOSES OF THIS SECTION:

39 1. "HEALTH CARE EMPLOYER" MEANS A HEALTH CARE INSTITUTION THAT IS  
40 LICENSED PURSUANT TO THIS TITLE AS A HOSPITAL, FREESTANDING EMERGENCY  
41 SERVICES FACILITY OR URGENT CARE FACILITY AND THAT HAS MORE THAN FIFTY  
42 EMPLOYEES.

43 2. "HEALTH CARE WORKER" MEANS AN EMPLOYEE OF A HEALTH CARE EMPLOYER  
44 OR A PERSON WHO HAS A CONTRACT WITH A HEALTH CARE EMPLOYER TO PROVIDE  
45 HEALTH CARE OR RELATED SERVICES.