

REFERENCE TITLE: refusing treatment; right; requirements.

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1393**

Introduced by  
Senators Barto: Kerr, Livingston, Petersen

AN ACT

AMENDING TITLE 36, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING  
ARTICLE 2; RELATING TO HEALTH CARE SERVICES.

(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 11, Arizona Revised Statutes, is  
3 amended by adding article 2, to read:

4 ARTICLE 2. RIGHT TO REFUSE TREATMENT

5 36-1305. Right to refuse treatment; violations; trial;  
6 injunctive relief

7 A. EXCEPT AS PROVIDED IN THIS SECTION OR IN CHAPTER 5 OF THIS  
8 TITLE, A HEALTH CARE INSTITUTION MAY NOT IMPOSE ANY MODE OF TREATMENT,  
9 INCLUDING VACCINATION, ON A PATIENT WHO DECLINES THE TREATMENT AND MAY NOT  
10 THREATEN TO WITHHOLD ANY SERVICE FROM A PATIENT AS A RESULT OF THE  
11 REFUSAL.

12 B. A HEALTH CARE INSTITUTION MAY ASK A PATIENT TO SPECIFY IN  
13 WRITING UNDER WHAT CIRCUMSTANCES THE PATIENT WOULD ACCEPT A TREATMENT THAT  
14 THE PATIENT HAS PREVIOUSLY DECLINED AND SHALL HONOR THOSE WISHES IF THE  
15 PATIENT CANNOT LATER EXPRESS THAT THE PATIENT HAS CHANGED HIS MIND. A  
16 PATIENT MAY ALSO PROVIDE WRITTEN OR ORAL DIRECTION TO THE SAME EFFECT OF  
17 THEIR OWN ACCORD.

18 C. A PARENT OF A MINOR CHILD OR A PERSON AUTHORIZED TO ACT ON A  
19 PATIENT'S BEHALF PURSUANT TO SECTION 14-5501 OR 36-3221 MAY ACCEPT, ON THE  
20 MINOR'S OR PATIENT'S BEHALF, ANY TREATMENT, INCLUDING A TREATMENT THAT THE  
21 PATIENT HAS PREVIOUSLY DECLINED.

22 D. A PATIENT HAS THE RIGHT TO LEAVE A HEALTH CARE INSTITUTION AT  
23 ANY TIME. IF THE PATIENT BECOMES INCAPACITATED, A PERSON AUTHORIZED TO  
24 ACT ON THE PATIENT'S BEHALF PURSUANT TO SECTION 14-5501 OR 36-3221 MAY  
25 EXERCISE THIS RIGHT ON THE PATIENT'S BEHALF. IF THE PATIENT IS A MINOR  
26 CHILD AND THE PATIENT BECOMES INCAPACITATED, A PARENT MAY ALSO EXERCISE  
27 THIS RIGHT ON THE PATIENT'S BEHALF UNLESS THE PATIENT HAS EXPRESSED, IN  
28 WRITING, THAT THE PATIENT DOES NOT WISH THE PARENT TO HAVE THIS AUTHORITY.

29 E. FOR THE PURPOSES OF THIS SECTION, A TRACKING OR MONITORING  
30 DEVICE SHALL BE CONSIDERED TO BE A MODE OF TREATMENT WHETHER OR NOT IT IS  
31 DIRECTLY RELATED TO A PATIENT'S TREATMENT.

32 F. A HEALTH CARE INSTITUTION THAT VIOLATES THIS SECTION SHALL PAY  
33 DAMAGES IN THE AMOUNT OF \$20,000 PER VIOLATION PER PATIENT, ADJUSTED FOR  
34 INFLATION, IN ADDITION TO THE REASONABLE ATTORNEY FEES AND COSTS OF SUIT,  
35 TO ANY PERSON WHO PREVAILS IN CHALLENGING A VIOLATION OF THIS SECTION.  
36 PATIENTS SHALL HAVE STANDING TO ASSERT A VIOLATION OF THIS SECTION. IN  
37 THE EVENT OF A PATIENT'S DEATH, THE PARTIES SET FORTH IN SECTION 12-612  
38 HAVE THE RIGHT TO MAINTAIN AN ACTION FOR THE VIOLATION OF THIS SECTION.  
39 CLAIMS FOR A VIOLATION OF THIS SECTION MAY NOT BE WAIVED. FOR THE  
40 AVOIDANCE OF DOUBT, PERSONS BRINGING OR DEFENDING A CLAIM FOR A VIOLATION  
41 OF THIS SECTION HAVE THE RIGHT TO TRY THE CASE TO A JURY. THIS DOES NOT  
42 ABROGATE IN ANY WAY THE OTHER RIGHTS TO TRIAL BY JURY AS MAY EXIST FOR THE  
43 VIOLATION OF OTHER LAWS OR INDICATE A LEGISLATIVE INTENT THAT THE RIGHT TO  
44 A JURY TRIAL MUST BE SPECIFIED BY THE STATUTE CREATING A CAUSE OF ACTION.

1           G. THE SUPERIOR COURT IN EACH COUNTY SHALL HEAR CLAIMS FOR A  
2 VIOLATION OF SUBSECTION D OF THIS SECTION WITHIN TWENTY-FOUR HOURS,  
3 INCLUDING HOLIDAYS AND WEEKENDS, AND ENTER JUDGMENT WITHIN THAT TIME AS TO  
4 WHETHER PRELIMINARY INJUNCTIVE RELIEF SHOULD BE GRANTED. PRELIMINARY  
5 INJUNCTIVE RELIEF SHALL BE GRANTED IF IT APPEARS AT THAT TIME THAT THE  
6 PATIENT WISHES TO LEAVE THE HEALTH CARE INSTITUTION OR IF IT APPEARS THAT  
7 THE PARENT WISHES THE PATIENT TO BE DISCHARGED AND THE PATIENT IS AN  
8 INCAPACITATED MINOR CHILD.

9           Sec. 2. Legislative intent

10           The Legislature intends that it is the public policy of this state  
11 that the right to refuse treatment, including vaccination, is a  
12 fundamental right.