

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: Biasucci, 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.

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

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

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

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

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

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

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

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

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

(c) Any implement that is being used by a peace officer or other officer or that the officer is attempting to use, and the person knows or has reason to know that the victim is a peace officer or other officer employed by one of the agencies listed in paragraph 10, subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes of this subdivision, "implement" means an object that is designed for or that is capable of restraining or injuring an individual. Implement does 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.