

REFERENCE TITLE: **physicians; naturopathic medicine**

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

SB 1088

Introduced by
Senator Barto

AN ACT

AMENDING SECTIONS 13-1204, 15-341, 15-871, 28-668, 28-959.01, 36-437 AND 46-455, ARIZONA REVISED STATUTES; RELATING TO NATUROPATHIC PHYSICIANS.

(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 practitioner who is certified or licensed
2 pursuant to title 32, chapter 13, 14, 15, 17 or 25, or a person summoned
3 and directed by the licensed health care practitioner while engaged in the
4 person's professional duties. This subdivision does not apply if the
5 person who commits the assault is seriously mentally ill, as defined in
6 section 36-550, or is afflicted with alzheimer's disease or related
7 dementia.

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

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

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

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

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

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

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

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

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

42 10. If the person meets both of the following conditions:

43 (a) Is imprisoned or otherwise subject to the custody of any of the
44 following:

45 (i) The state department of corrections.

1 (ii) The department of juvenile corrections.

2 (iii) A law enforcement agency.

3 (iv) A county or city jail or an adult or juvenile detention
4 facility of a city or county.

5 (v) Any other entity that is contracting with the state department
6 of corrections, the department of juvenile corrections, a law enforcement
7 agency, another state, any private correctional facility, a county, a city
8 or the federal bureau of prisons or other federal agency that has
9 responsibility for sentenced or unsentenced prisoners.

10 (b) Commits an assault knowing or having reason to know that the
11 victim is acting in an official capacity as an employee of any of the
12 entities listed in subdivision (a) of this paragraph.

13 11. If the person uses a simulated deadly weapon.

14 B. A person commits aggravated assault if the person commits
15 assault by either intentionally, knowingly or recklessly causing any
16 physical injury to another person, intentionally placing another person in
17 reasonable apprehension of imminent physical injury or knowingly touching
18 another person with the intent to injure the person, and both of the
19 following occur:

20 1. The person intentionally or knowingly impedes the normal
21 breathing or circulation of blood of another person by applying pressure
22 to the throat or neck or by obstructing the nose and mouth either manually
23 or through the use of an instrument.

24 2. Any of the circumstances exists that are set forth in section
25 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

26 C. A person who is convicted of intentionally or knowingly
27 committing aggravated assault on a peace officer pursuant to subsection A,
28 paragraph 1 or 2 of this section shall be sentenced to imprisonment for
29 not less than the presumptive sentence authorized under chapter 7 of this
30 title and is not eligible for suspension of sentence, commutation or
31 release on any basis until the sentence imposed is served.

32 D. It is not a defense to a prosecution for assaulting a peace
33 officer or a mitigating circumstance that the peace officer was not on
34 duty or engaged in the execution of any official duties.

35 E. Except pursuant to subsections F and G of this section,
36 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph
37 9, subdivision (a) or paragraph 11 of this section is a class 3 felony
38 except if the aggravated assault is a violation of subsection A, paragraph
39 1 or 2 of this section and the victim is under fifteen years of age it is
40 a class 2 felony punishable pursuant to section 13-705. Aggravated assault
41 pursuant to subsection A, paragraph 3 or subsection B of this section is a
42 class 4 felony. Aggravated assault pursuant to subsection A, paragraph 9,
43 subdivision (b) or paragraph 10 of this section is a class 5 felony.
44 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8 or
45 paragraph 9, subdivision (c) of this section is a class 6 felony.

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

9 G. Aggravated assault pursuant to:

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

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

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

16 H. For the purposes of this section:

17 1. "Judicial officer" means a justice of the supreme court, judge,
18 justice of the peace or magistrate or a commissioner or hearing officer of
19 a state, county or municipal court.

20 2. "Prosecutor" means a county attorney, a municipal prosecutor or
21 the attorney general and includes an assistant or deputy county attorney,
22 municipal prosecutor or attorney general.

23 Sec. 2. Section 15-341, Arizona Revised Statutes, is amended to
24 read:

25 15-341. General powers and duties; immunity; delegation

26 A. The governing board shall:

27 1. Prescribe and enforce policies and procedures to govern the
28 schools that are not inconsistent with law or rules prescribed by the
29 state board of education.

30 2. Exclude from schools all books, publications, papers or
31 audiovisual materials of a sectarian, partisan or denominational
32 character. This paragraph does not prohibit the elective course ~~permitted~~
33 ~~ALLOWED~~ by section 15-717.01.

34 3. Manage and control the school property within its district,
35 except that a district may enter into a partnership with an entity,
36 including a charter school, another school district or a military base, to
37 operate a school or offer educational services in a district building,
38 including at a vacant or partially used building, or in any building on
39 the entity's property pursuant to a written agreement between the parties.

40 4. Acquire school furniture, apparatus, equipment, library books
41 and supplies for the schools to use.

42 5. Prescribe the curricula and criteria for the promotion and
43 graduation of pupils as provided in sections 15-701 and 15-701.01.

44 6. Furnish, repair and insure, at full insurable value, the school
45 property of the district.

- 1 7. Construct school buildings on approval by a vote of the district
2 electors.
- 3 8. In the name of the district, convey property belonging to the
4 district and sold by the board.
- 5 9. Purchase school sites when authorized by a vote of the district
6 at an election conducted as nearly as practicable in the same manner as
7 the election provided in section 15-481 and held on a date prescribed in
8 section 15-491, subsection E, but such authorization shall not necessarily
9 specify the site to be purchased and such authorization shall not be
10 necessary to exchange unimproved property as provided in section 15-342,
11 paragraph 23.
- 12 10. Construct, improve and furnish buildings used for school
13 purposes when such buildings or premises are leased from the national park
14 service.
- 15 11. Purchase school sites or construct, improve and furnish school
16 buildings from the proceeds of the sale of school property only on
17 approval by a vote of the district electors.
- 18 12. Hold pupils to strict account for disorderly conduct on school
19 property.
- 20 13. Discipline students for disorderly conduct on the way to and
21 from school.
- 22 14. Except as provided in section 15-1224, deposit all monies
23 received by the district as gifts, grants and devises with the county
24 treasurer who shall credit the deposits as designated in the uniform
25 system of financial records. If not inconsistent with the terms of the
26 gifts, grants and devises given, any balance remaining after expenditures
27 for the intended purpose of the monies have been made shall be used ~~for~~
28 ~~reduction of~~ TO REDUCE school district taxes for the budget year, except
29 that in the case of accommodation schools the county treasurer shall carry
30 the balance forward for use by the county school superintendent for
31 accommodation schools for the budget year.
- 32 15. Provide that, if a parent or legal guardian chooses not to
33 accept a decision of the teacher as provided in paragraph 42 of this
34 subsection, the parent or legal guardian may request in writing that the
35 governing board review the teacher's decision. This paragraph does not
36 release school districts from any liability relating to a child's
37 promotion or retention.
- 38 16. Provide for adequate supervision over pupils in instructional
39 and noninstructional activities by certificated or noncertificated
40 personnel.
- 41 17. Use school monies received from the state and county school
42 apportionment exclusively to pay salaries of teachers and other employees
43 and contingent expenses of the district.
- 44 18. Annually report to the county school superintendent on or
45 before October 1 in the manner and form and on the blanks prescribed by

1 the superintendent of public instruction or county school superintendent.
2 The board shall also report directly to the county school superintendent
3 or the superintendent of public instruction whenever required.

4 19. Deposit all monies received by school districts other than
5 student activities monies or monies from auxiliary operations as provided
6 in sections 15-1125 and 15-1126 with the county treasurer to the credit of
7 the school district except as provided in paragraph 20 of this subsection
8 and sections 15-1223 and 15-1224, and the board shall ~~expend~~ SPEND the
9 monies as provided by law for other school funds.

10 20. Establish bank accounts in which the board during a month may
11 deposit miscellaneous monies received directly by the district. The board
12 shall remit monies deposited in the bank accounts at least monthly to the
13 county treasurer for deposit as provided in paragraph 19 of this
14 subsection and in accordance with the uniform system of financial records.

15 21. Prescribe and enforce policies and procedures for disciplinary
16 action against a teacher who engages in conduct that is a violation of the
17 policies of the governing board but that is not cause for dismissal of the
18 teacher or for revocation of the certificate of the teacher. Disciplinary
19 action may include suspension without pay for a period of time not to
20 exceed ten school days. Disciplinary action shall not include suspension
21 with pay or suspension without pay for a period of time longer than ten
22 school days. The procedures shall include notice, hearing and appeal
23 provisions for violations that are cause for disciplinary action. The
24 governing board may designate a person or persons to act on behalf of the
25 board on these matters.

26 22. Prescribe and enforce policies and procedures for disciplinary
27 action against an administrator who engages in conduct that is a violation
28 of the policies of the governing board regarding duties of administrators
29 but that is not cause for dismissal of the administrator or for revocation
30 of the certificate of the administrator. Disciplinary action may include
31 suspension without pay for a period of time not to exceed ten school days.
32 Disciplinary action shall not include suspension with pay or suspension
33 without pay for a period of time longer than ten school days. The
34 procedures shall include notice, hearing and appeal provisions for
35 violations that are cause for disciplinary action. The governing board
36 may designate a person or persons to act on behalf of the board on these
37 matters. For violations that are cause for dismissal, the provisions of
38 notice, hearing and appeal in chapter 5, article 3 of this title ~~shall~~
39 apply. The filing of a timely request for a hearing suspends the
40 imposition of a suspension without pay or a dismissal pending completion
41 of the hearing.

42 23. Notwithstanding sections 13-3108 and 13-3120, prescribe and
43 enforce policies and procedures that prohibit a person from carrying or
44 possessing a weapon on school grounds unless the person is a peace officer
45 or has obtained specific authorization from the school administrator.

1 24. Prescribe and enforce policies and procedures relating to the
2 health and safety of all pupils participating in district-sponsored
3 practice sessions or games or other interscholastic athletic activities,
4 including:

5 (a) The provision of water.

6 (b) Guidelines, information and forms, developed in consultation
7 with a statewide private entity that supervises interscholastic
8 activities, to inform and educate coaches, pupils and parents of the
9 dangers of concussions and head injuries and the risks of continued
10 participation in athletic activity after a concussion. The policies and
11 procedures shall require that, before a pupil participates in an athletic
12 activity, the pupil and the pupil's parent ~~must~~ sign an information form
13 at least once each school year that states that the parent is aware of the
14 nature and risk of concussion. The policies and procedures shall require
15 that a pupil who is suspected of sustaining a concussion in a practice
16 session, game or other interscholastic athletic activity be immediately
17 removed from the athletic activity and that the pupil's parent or guardian
18 be notified. A coach from the pupil's team or an official or a licensed
19 health care provider may remove a pupil from play. A team parent may also
20 remove the parent's own child from play. A pupil may return to play on
21 the same day if a health care provider rules out a suspected concussion at
22 the time the pupil is removed from play. On a subsequent day, the pupil
23 may return to play if the pupil has been evaluated by and received written
24 clearance to resume participation in athletic activity from a health care
25 provider who has been trained in ~~the evaluation~~ EVALUATING and ~~management~~
26 ~~of~~ MANAGING concussions and head injuries. A health care provider who is
27 a volunteer and who provides clearance to participate in athletic activity
28 on the day of the suspected injury or on a subsequent day is immune from
29 civil liability with respect to all decisions made and actions taken that
30 are based on good faith implementation of the requirements of this
31 subdivision, except in cases of gross negligence or wanton or wilful
32 neglect. A school district, school district employee, team coach,
33 official or team volunteer or a parent or guardian of a team member is not
34 subject to civil liability for any act, omission or policy undertaken in
35 good faith to comply with the requirements of this subdivision or for a
36 decision made or an action taken by a health care provider. A group or
37 organization that uses property or facilities owned or operated by a
38 school district for athletic activities shall comply with the requirements
39 of this subdivision. A school district and its employees and volunteers
40 are not subject to civil liability for any other person or organization's
41 failure or alleged failure to comply with the requirements of this
42 subdivision. This subdivision does not apply to teams that are based in
43 another state and that participate in an athletic activity in this
44 state. For the purposes of this subdivision, athletic activity does not
45 include dance, rhythmic gymnastics, competitions or exhibitions of

1 academic skills or knowledge or other similar forms of physical noncontact
2 activities, civic activities or academic activities, whether engaged in
3 for the purposes of competition or recreation. For the purposes of this
4 subdivision, "health care provider" means a physician who is licensed
5 pursuant to title 32, chapter 13, 14 or 17, an athletic trainer who is
6 licensed pursuant to title 32, chapter 41, a nurse practitioner who is
7 licensed pursuant to title 32, chapter 15, and a physician assistant who
8 is licensed pursuant to title 32, chapter 25.

9 (c) Guidelines, information and forms that are developed in
10 consultation with a statewide private entity that supervises
11 interscholastic activities to inform and educate coaches, pupils and
12 parents of the dangers of heat-related illnesses, sudden cardiac death and
13 prescription opioid use. Before a pupil participates in any
14 district-sponsored practice session or game or other interscholastic
15 athletic activity, the pupil and the pupil's parent must be provided with
16 information at least once each school year on the risks of heat-related
17 illnesses, sudden cardiac death and prescription opioid addiction.

18 25. Establish an assessment, data gathering and reporting system as
19 prescribed in chapter 7, article 3 of this title.

20 26. Provide special education programs and related services
21 pursuant to section 15-764, subsection A to all children with disabilities
22 as defined in section 15-761.

23 27. Administer competency tests prescribed by the state board of
24 education for the graduation of pupils from high school.

25 28. Ensure that insurance coverage is secured for all construction
26 projects for purposes of general liability, property damage and workers'
27 compensation and secure performance and payment bonds for all construction
28 projects.

29 29. Keep in the personnel file of all current and former employees
30 who provide instruction to pupils at a school information about the
31 employee's educational and teaching background and experience in a
32 particular academic content subject area. A school district shall inform
33 parents and guardians of the availability of the information and shall
34 make the information available for inspection on request of parents and
35 guardians of pupils enrolled at a school. This paragraph does not require
36 any school to release personally identifiable information in relation to
37 any teacher or employee, including the teacher's or employee's address,
38 salary, social security number or telephone number.

39 30. Report to local law enforcement agencies any suspected crime
40 against a person or property that is a serious offense as defined in
41 section 13-706 or that involves a deadly weapon or dangerous instrument or
42 serious physical injury and any conduct that poses a threat of death or
43 serious physical injury to employees, students or anyone on the property
44 of the school. This paragraph does not limit or preclude the reporting by
45 a school district or an employee of a school district of suspected crimes

1 other than those required to be reported by this paragraph. For the
2 purposes of this paragraph, "dangerous instrument", "deadly weapon" and
3 "serious physical injury" have the same meanings prescribed in section
4 13-105.

5 31. In conjunction with local law enforcement agencies and
6 emergency response agencies, develop an emergency response plan for each
7 school in the school district in accordance with minimum standards
8 developed jointly by the department of education and the division of
9 emergency management within the department of emergency and military
10 affairs.

11 32. Provide written notice to the parents or guardians of all
12 students enrolled in the school district at least ten days before a public
13 meeting to discuss closing a school within the school district. The
14 notice shall include the reasons for the proposed closure and the time and
15 place of the meeting. The governing board shall fix a time for a public
16 meeting on the proposed closure not less than ten days before voting in a
17 public meeting to close the school. The school district governing board
18 shall give notice of the time and place of the meeting. At the time and
19 place designated in the notice, the school district governing board shall
20 hear reasons for or against closing the school. The school district
21 governing board is exempt from this paragraph if the governing board
22 determines that the school shall be closed because it poses a danger to
23 the health or safety of the pupils or employees of the school. A
24 governing board may consult with the division of school facilities within
25 the department of administration for technical assistance and for
26 information on the impact of closing a school. The information provided
27 from the division of school facilities within the department of
28 administration shall not require the governing board to take or not take
29 any action.

30 33. Incorporate instruction on Native American history into
31 appropriate existing curricula.

32 34. Prescribe and enforce policies and procedures:

33 (a) Allowing pupils who have been diagnosed with anaphylaxis by a
34 health care provider licensed pursuant to title 32, chapter 13, 14, 17 or
35 25 or by a registered nurse practitioner licensed and certified pursuant
36 to title 32, chapter 15 to carry and self-administer emergency
37 medications, including epinephrine auto-injectors, while at school and at
38 school-sponsored activities. The pupil's name on the prescription label
39 on the medication container or on the medication device and annual written
40 documentation from the pupil's parent or guardian to the school that
41 authorizes possession and self-administration is sufficient proof that the
42 pupil is entitled to ~~the possession~~ POSSESS and ~~self-administration of~~
43 SELF-ADMINISTER the medication. The policies shall require a pupil who
44 uses an epinephrine auto-injector while at school and at school-sponsored
45 activities to notify the nurse or the designated school staff person of

1 the use of the medication as soon as practicable. A school district and
 2 its employees are immune from civil liability with respect to all
 3 decisions made and actions taken that are based on good faith
 4 implementation of the requirements of this subdivision, except in cases of
 5 wanton or wilful neglect.

6 (b) For the emergency administration of epinephrine auto-injectors
 7 by a trained employee of a school district pursuant to section 15-157.

8 35. Allow the possession and self-administration of prescription
 9 medication for breathing disorders in handheld inhaler devices by pupils
 10 who have been prescribed that medication by a health care professional
 11 licensed pursuant to title 32. The pupil's name on the prescription label
 12 on the medication container or on the handheld inhaler device and annual
 13 written documentation from the pupil's parent or guardian to the school
 14 that authorizes possession and self-administration ~~shall be~~ IS sufficient
 15 proof that the pupil is entitled to ~~the possession~~ POSSESS and
 16 ~~self-administration of~~ SELF-ADMINISTER the medication. A school district
 17 and its employees are immune from civil liability with respect to all
 18 decisions made and actions taken that are based on a good faith
 19 implementation of the requirements of this paragraph.

20 36. Prescribe and enforce policies and procedures to prohibit
 21 pupils from harassing, intimidating and bullying other pupils on school
 22 grounds, on school property, on school buses, at school bus stops, at
 23 school-sponsored events and activities and through the use of electronic
 24 technology or electronic communication on school computers, networks,
 25 forums and mailing lists that include the following components:

26 (a) A procedure for pupils, parents and school district employees
 27 to confidentially report to school officials incidents of harassment,
 28 intimidation or bullying. The school shall make available written forms
 29 designed to provide a full and detailed description of the incident and
 30 any other relevant information about the incident.

31 (b) A requirement that school district employees report in writing
 32 suspected incidents of harassment, intimidation or bullying to the
 33 appropriate school official and a description of appropriate disciplinary
 34 procedures for employees who fail to report suspected incidents that are
 35 known to the employee.

36 (c) A requirement that, at the beginning of each school year,
 37 school officials provide all pupils with a written copy of the rights,
 38 protections and support services available to a pupil who is an alleged
 39 victim of an incident reported pursuant to this paragraph.

40 (d) If an incident is reported pursuant to this paragraph, a
 41 requirement that school officials provide a pupil who is an alleged victim
 42 of the incident with a written copy of the rights, protections and support
 43 services available to that pupil.

44 (e) A formal process for documenting reported incidents of
 45 harassment, intimidation or bullying and providing for the

1 confidentiality, maintenance and disposition of this documentation.
2 School districts shall maintain documentation of all incidents reported
3 pursuant to this paragraph for at least six years. The school shall not
4 use that documentation to impose disciplinary action unless the
5 appropriate school official has investigated and determined that the
6 reported incidents of harassment, intimidation or bullying occurred. If a
7 school provides documentation of reported incidents to persons other than
8 school officials or law enforcement, all individually identifiable
9 information shall be redacted.

10 (f) A formal process for the appropriate school officials to
11 investigate suspected incidents of harassment, intimidation or bullying,
12 including procedures for notifying the alleged victim and the alleged
13 victim's parent or guardian when a school official or employee becomes
14 aware of the suspected incident of harassment, intimidation or bullying.

15 (g) Disciplinary procedures for pupils who have admitted or been
16 found to have committed incidents of harassment, intimidation or bullying.

17 (h) A procedure that sets forth consequences for submitting false
18 reports of incidents of harassment, intimidation or bullying.

19 (i) Procedures designed to protect the health and safety of pupils
20 who are physically harmed as the result of incidents of harassment,
21 intimidation and bullying, including, if appropriate, procedures to
22 contact emergency medical services or law enforcement agencies, or both.

23 (j) Definitions of harassment, intimidation and bullying.

24 37. Prescribe and enforce policies and procedures regarding
25 changing or adopting attendance boundaries that include the following
26 components:

27 (a) A procedure for holding public meetings to discuss attendance
28 boundary changes or adoptions that allows public comments.

29 (b) A procedure to notify the parents or guardians of the students
30 affected, including assurance that, if that school remains open as part of
31 the boundary change and capacity is available, students assigned to a new
32 attendance area may stay enrolled in their current school.

33 (c) A procedure to notify the residents of the households affected
34 by the attendance boundary changes.

35 (d) A process for placing public meeting notices and proposed maps
36 on the school district's website for public review, if the school district
37 maintains a website.

38 (e) A formal process for presenting the attendance boundaries of
39 the affected area in public meetings that allows public comments.

40 (f) A formal process for notifying the residents and parents or
41 guardians of the affected area as to the decision of the governing board
42 on the school district's website, if the school district maintains a
43 website.

44 (g) A formal process for updating attendance boundaries on the
45 school district's website within ninety days after an adopted boundary

1 change. The school district shall send a direct link to the school
2 district's attendance boundaries website to the department of real estate.

3 38. If the state board of education determines that the school
4 district has committed an overexpenditure as defined in section 15-107,
5 provide a copy of the fiscal management report submitted pursuant to
6 section 15-107, subsection H on its website and make copies available to
7 the public on request. The school district shall comply with a request
8 within five business days after receipt.

9 39. Ensure that the contract for the superintendent is structured
10 in a manner in which up to twenty percent of the total annual salary
11 included for the superintendent in the contract is classified as
12 performance pay. This paragraph does not require school districts to
13 increase total compensation for superintendents. Unless the school
14 district governing board votes to implement an alternative procedure at a
15 public meeting called for this purpose, the performance pay portion of the
16 superintendent's total annual compensation shall be determined as follows:

17 (a) Twenty-five percent of the performance pay shall be determined
18 based on the percentage of academic gain determined by the department of
19 education of pupils who are enrolled in the school district compared to
20 the academic gain achieved by the highest ranking of the fifty largest
21 school districts in this state. For the purposes of this subdivision, the
22 department of education shall determine academic gain by the academic
23 growth achieved by each pupil who has been enrolled at the same school in
24 a school district for at least five consecutive months measured against
25 that pupil's academic results in the 2008-2009 school year. For the
26 purposes of this subdivision, of the fifty largest school districts in
27 this state, the school district with pupils who demonstrate the highest
28 statewide percentage of overall academic gain measured against academic
29 results for the 2008-2009 school year shall be assigned a score of 100 and
30 the school district with pupils who demonstrate the lowest statewide
31 percentage of overall academic gain measured against academic results for
32 the 2008-2009 school year shall be assigned a score of 0.

33 (b) Twenty-five percent of the performance pay shall be determined
34 by the percentage of parents of pupils who are enrolled at the school
35 district who assign a letter grade of "A" to the school on a survey of
36 parental satisfaction with the school district. The parental satisfaction
37 survey shall be administered and scored by an independent entity that is
38 selected by the governing board and that demonstrates sufficient expertise
39 and experience to accurately measure the results of the survey. The
40 parental satisfaction survey shall use standard random sampling procedures
41 and provide anonymity and confidentiality to each parent who participates
42 in the survey. The letter grade scale used on the parental satisfaction
43 survey shall direct parents to assign one of the following letter grades:

44 (i) A letter grade of "A" if the school district is excellent.

45 (ii) A letter grade of "B" if the school district is above average.

- 1 (iii) A letter grade of "C" if the school district is average.
- 2 (iv) A letter grade of "D" if the school district is below average.
- 3 (v) A letter grade of "F" if the school district is a failure.
- 4 (c) Twenty-five percent of the performance pay shall be determined
- 5 by the percentage of teachers who are employed at the school district and
- 6 who assign a letter grade of "A" to the school on a survey of teacher
- 7 satisfaction with the school. The teacher satisfaction survey shall be
- 8 administered and scored by an independent entity that is selected by the
- 9 governing board and that demonstrates sufficient expertise and experience
- 10 to accurately measure the results of the survey. The teacher satisfaction
- 11 survey shall use standard random sampling procedures and provide anonymity
- 12 and confidentiality to each teacher who participates in the survey. The
- 13 letter grade scale used on the teacher satisfaction survey shall direct
- 14 teachers to assign one of the following letter grades:
 - 15 (i) A letter grade of "A" if the school district is excellent.
 - 16 (ii) A letter grade of "B" if the school district is above average.
 - 17 (iii) A letter grade of "C" if the school district is average.
 - 18 (iv) A letter grade of "D" if the school district is below average.
 - 19 (v) A letter grade of "F" if the school district is a failure.
- 20 (d) Twenty-five percent of the performance pay shall be determined
- 21 by other criteria selected by the governing board.
- 22 40. Maintain and store permanent public records of the school
- 23 district as required by law. Notwithstanding section 39-101, the
- 24 standards adopted by the Arizona state library, archives and public
- 25 records for the maintenance and storage of school district public records
- 26 shall allow school districts to elect to satisfy the requirements of this
- 27 paragraph by maintaining and storing these records either on paper or in
- 28 an electronic format, or a combination of a paper and electronic format.
- 29 41. Adopt in a public meeting and implement policies for principal
- 30 evaluations. Before adopting principal evaluation policies, the school
- 31 district governing board shall provide opportunities for public discussion
- 32 on the proposed policies. The governing board shall adopt policies that:
 - 33 (a) Are designed to improve principal performance and improve
 - 34 student achievement.
 - 35 (b) Include the use of quantitative data on the academic progress
 - 36 for all students, which shall account for between twenty percent and
 - 37 thirty-three percent of the evaluation outcomes.
 - 38 (c) Include four performance classifications, designated as highly
 - 39 effective, effective, developing and ineffective.
 - 40 (d) Describe both of the following:
 - 41 (i) The methods used to evaluate the performance of principals,
 - 42 including the data used to measure student performance and job
 - 43 effectiveness.
 - 44 (ii) The formula used to determine evaluation outcomes.

1 42. Prescribe and enforce policies and procedures that define the
2 duties of principals and teachers. These policies and procedures shall
3 authorize teachers to take and maintain daily classroom attendance, make
4 the decision to promote or retain a pupil in a grade in common school or
5 to pass or fail a pupil in a course in high school, subject to review by
6 the governing board in the manner provided in section 15-342,
7 paragraph 11.

8 43. Prescribe and enforce policies and procedures for the emergency
9 administration by an employee of a school district pursuant to section
10 36-2267 of naloxone hydrochloride or any other opioid antagonist approved
11 by the United States food and drug administration.

12 44. In addition to the notification requirements prescribed in
13 paragraph 36 of this subsection, prescribe and enforce reasonable and
14 appropriate policies to notify a pupil's parent or guardian if any person
15 engages in harassing, threatening or intimidating conduct against that
16 pupil. A school district and its officials and employees are immune from
17 civil liability with respect to all decisions made and actions taken that
18 are based on good faith implementation of the requirements of this
19 paragraph, except in cases of gross negligence or wanton or wilful
20 neglect. A person engages in threatening or intimidating if the person
21 threatens or intimidates by word or conduct to cause physical injury to
22 another person or serious damage to the property of another on school
23 grounds. A person engages in harassment if, with intent to harass or with
24 knowledge that the person is harassing another person, the person
25 anonymously or otherwise contacts, communicates or causes a communication
26 with another person by verbal, electronic, mechanical, telephonic or
27 written means in a manner that harasses on school grounds or substantially
28 disrupts the school environment.

29 45. Each fiscal year, provide to each school district employee a
30 total compensation statement that is broken down by category of benefit or
31 payment and that includes, for that employee, at least all of the
32 following:

- 33 (a) Base salary and any additional pay.
- 34 (b) Medical benefits and the value of any employer-paid portions of
35 insurance plan premiums.
- 36 (c) Retirement benefit plans, including social security.
- 37 (d) Legally required benefits.
- 38 (e) Any paid leave.
- 39 (f) Any other payment made to or on behalf of the employee.
- 40 (g) Any other benefit provided to the employee.

41 B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this
42 section, the county school superintendent may construct, improve and
43 furnish school buildings or purchase or sell school sites in the conduct
44 of an accommodation school.

1 C. If any school district acquires real or personal property,
2 whether by purchase, exchange, condemnation, gift or otherwise, the
3 governing board shall pay to the county treasurer any taxes on the
4 property that were unpaid as of the date of acquisition, including
5 penalties and interest. The lien for unpaid delinquent taxes, penalties
6 and interest on property acquired by a school district:

7 1. Is not abated, extinguished, discharged or merged in the title
8 to the property.

9 2. Is enforceable in the same manner as other delinquent tax liens.

10 D. The governing board may not locate a school on property that is
11 less than one-fourth mile from agricultural land regulated pursuant to
12 section 3-365, except that the owner of the agricultural land may agree to
13 comply with the buffer zone requirements of section 3-365. If the owner
14 agrees in writing to comply with the buffer zone requirements and records
15 the agreement in the office of the county recorder as a restrictive
16 covenant running with the title to the land, the school district may
17 locate a school within the affected buffer zone. The agreement may
18 include any stipulations regarding the school, including conditions for
19 future expansion of the school and changes in the operational status of
20 the school that will result in a breach of the agreement.

21 E. A school district, its governing board members, its school
22 council members and its employees are immune from civil liability for the
23 consequences of adoption and implementation of policies and procedures
24 pursuant to subsection A of this section and section 15-342. This waiver
25 does not apply if the school district, its governing board members, its
26 school council members or its employees are guilty of gross negligence or
27 intentional misconduct.

28 F. A governing board may delegate in writing to a superintendent,
29 principal or head teacher the authority to prescribe procedures that are
30 consistent with the governing board's policies.

31 G. Notwithstanding any other provision of this title, a school
32 district governing board shall not take any action that would result in a
33 reduction of pupil square footage unless the governing board notifies the
34 school facilities oversight board established by section 41-5701.02 of the
35 proposed action and receives written approval from the school facilities
36 oversight board to take the action. A reduction includes an increase in
37 administrative space that results in a reduction of pupil square footage
38 or sale of school sites or buildings, or both. A reduction includes a
39 reconfiguration of grades that results in a reduction of pupil square
40 footage of any grade level. This subsection does not apply to temporary
41 reconfiguration of grades to accommodate new school construction if the
42 temporary reconfiguration does not exceed one year. The sale of equipment
43 that results in a reduction that falls below the equipment requirements
44 prescribed in section 41-5711, subsection B is subject to commensurate
45 withholding of school district district additional assistance monies

1 pursuant to the direction of the school facilities oversight
2 board. Except as provided in section 15-342, paragraph 10, proceeds from
3 the sale of school sites, buildings or other equipment shall be deposited
4 in the school plant fund as provided in section 15-1102.

5 H. Subsections C through G of this section apply to a county board
6 of supervisors and a county school superintendent when operating and
7 administering an accommodation school.

8 I. A school district governing board may delegate authority in
9 writing to the superintendent of the school district to submit plans for
10 new school facilities to the school facilities oversight board for the
11 purpose of certifying that the plans meet the minimum school facility
12 adequacy guidelines prescribed in section 41-5711.

13 J. For the purposes of subsection A, paragraph 37 of this section,
14 attendance boundaries may not be used to require students to attend
15 certain schools based on the student's place of residence.

16 Sec. 3. Section 15-871, Arizona Revised Statutes, is amended to
17 read:

18 15-871. Definitions

19 In this article, unless the context otherwise requires:

20 1. "Documentary proof" means written evidence that a pupil has been
21 immunized or has laboratory evidence of immunity that conforms with the
22 standards ~~promulgated~~ ADOPTED pursuant to section 15-872.

23 2. "Dose" means the number in a series of immunizations that may be
24 prescribed pursuant to section 36-672.

25 3. "Health agency" means a local health department or similar
26 governmental agency established pursuant to the laws of another state or
27 country and its officers and employees.

28 4. "Homeless pupil" means a pupil who has a primary residence that
29 is:

30 (a) A supervised publicly or privately operated shelter designed to
31 provide temporary living accommodations.

32 (b) An institution that provides a temporary residence for
33 individuals intended to be institutionalized.

34 (c) A public or private place not designed for, or ordinarily used
35 as a regular sleeping accommodation for, human beings.

36 5. "Immunization" means the process of ~~inoculation~~ INOCULATING A
37 PERSON with a specific antigen to promote antibody formation in the
38 PERSON'S body.

39 6. "Immunized" means the required initial immunization and boosters
40 or reimmunization prescribed pursuant to section 36-672.

41 7. "Laboratory evidence of immunity" means written evidence of
42 serologic confirmation of the presence of specific antibodies against an
43 immunization-preventable disease that is signed by a physician or an
44 authorized representative of a health agency.

1 C. The investigating officer shall record on the accident report
2 required under section 28-667 the results of the test to determine the
3 alcohol concentration of the driver or drivers.

4 Sec. 5. Section 28-959.01, Arizona Revised Statutes, is amended to
5 read:

6 28-959.01. Materials on windows or windshield; exceptions;
7 requirements; violation; definitions

8 A. This section does not apply to:

9 1. Front side wing vents and windows that have a substance or
10 material in conjunction with glazing material that has a light
11 transmission of thirty-three ~~per cent~~ PERCENT plus or minus three ~~per cent~~
12 PERCENT and a luminous reflectance of thirty-five ~~per cent~~ PERCENT plus or
13 minus three ~~per cent~~ PERCENT.

14 2. Front side wing vents and windows that have a substance or
15 material not attached in conjunction with glazing material that is used by
16 a vehicle operator on a moving vehicle during daylight hours as provided
17 in section 28-922.

18 3. Rearview mirrors.

19 4. Adjustable nontransparent sun visors that are mounted forward of
20 the side windows and that are not attached to the glass.

21 5. Signs, stickers or other materials that are either:

22 (a) Displayed in a seven inch square in the lower corner of the
23 windshield farthest removed from the driver.

24 (b) Displayed in a five inch square in the lower corner of the
25 windshield nearest the driver.

26 6. Side windows that are to the rear of the driver and rear windows
27 that have a substance or material in conjunction with glazing material
28 that has a luminous reflectance of thirty-five ~~per cent~~ PERCENT plus or
29 minus three ~~per cent~~ PERCENT or less.

30 7. Direction, destination or termination signs on a passenger
31 common carrier motor vehicle, if the signs do not interfere with the
32 driver's clear view of approaching traffic.

33 8. Rear window wiper motors.

34 9. A rear trunk lid handle or hinges.

35 10. The rear window or windows if the motor vehicle is equipped with
36 outside mirrors that are on both left-hand and right-hand sides of the
37 vehicle and that are located in a manner to reflect to the driver a view
38 of the highway through each mirror for a distance of at least two hundred
39 feet to the rear of the motor vehicle.

40 11. Transparent material that is installed, affixed or applied to
41 the topmost portion of the windshield if:

42 (a) The bottom edge of the material is at least twenty-nine inches
43 above the undepressed driver's seat when measured from a point five inches
44 in front of the bottom of the backrest with the driver's seat in its
45 rearmost and lowermost position with the vehicle on a level surface.

1 (b) The material is not red or amber in color.

2 12. Safety monitoring equipment and driver feedback if mounted in
3 either of the following locations:

4 (a) Immediately behind, slightly above or slightly below the
5 rearview mirror.

6 (b) Where the rearview mirror would commonly be positioned if the
7 motor vehicle is without a windshield mounted rearview mirror.

8 B. Except as otherwise provided in this section, a person shall not
9 operate a motor vehicle with an object or material placed, displayed,
10 installed, affixed or applied on the windshield or side or rear windows or
11 with an object or material placed, displayed, installed, affixed or
12 applied in or on the motor vehicle in a manner that obstructs or reduces a
13 driver's clear view through the windshield or side or rear windows.

14 C. Except as otherwise provided in this section, a person shall not
15 place, install, affix or apply a transparent material on the windshield or
16 side or rear windows of a motor vehicle if the material alters the color
17 or reduces the light transmittance of the windshield or side or rear
18 windows.

19 D. Each manufacturer shall certify to the director that the product
20 or material the manufacturer manufactures or assembles complies with the
21 reflectivity and transmittance requirements of this section.

22 E. This section does not ~~permit~~ ALLOW or prohibit the use and
23 placement of federal, state or local certificates on any window as are
24 required or prohibited by applicable laws.

25 F. A person who sells or installs objects or materials under this
26 section shall set forth in a conspicuous manner that the installation of
27 the object or material to the driver or passenger side window may be
28 illegal in some states.

29 G. On application from a person required for medical reasons to be
30 shielded from the direct rays of the sun that is supported by written
31 attestation of this fact from a physician licensed pursuant to title 32,
32 chapter 13, 14 or 17, the department may issue an exemption from this
33 section for a motor vehicle belonging to the person or in which the person
34 is a habitual passenger. A person may operate a vehicle or alter the
35 color or reduce the light transmitted through the side or rear windows of
36 a vehicle pursuant to an exemption issued by the director.

37 H. In this section, unless the context otherwise requires:

38 1. "Light transmission" means the ratio of the amount of total
39 light, expressed in percentages, that is allowed to pass through the
40 product or material including the glazing to the amount of total light
41 falling on the product or material and the glazing.

42 2. "Luminous reflectance" means the ratio of the amount of total
43 light, expressed in percentages, that is reflected outward by the product
44 or material to the amount of total light falling on the product or
45 material.

1 3. "Manufacturer" means either:

2 (a) A person who engages in the manufacturing or assembling of sun
3 screening products or materials designed to be used in conjunction with
4 vehicle glazing materials.

5 (b) A person who fabricates, laminates or tempers the glazing
6 material incorporating the capacity to reflect or to reduce the
7 transmittance of light during the manufacturing process.

8 Sec. 6. Section 36-437, Arizona Revised Statutes, is amended to
9 read:

10 36-437. Health care facilities; charges; public availability;
11 direct payment; notice; definitions

12 A. A health care facility with more than fifty inpatient beds must
13 make available on request or online the direct pay price for at least the
14 fifty most used diagnosis-related group codes, if applicable, for the
15 facility and at least the fifty most used outpatient service codes, if
16 applicable, for the facility. The services may be identified by a common
17 procedural terminology code or by a plain-English description. The health
18 care facility must update the direct pay prices at least annually based on
19 the services from a twelve-month period that occurred within the
20 eighteen-month period preceding the annual update. The direct pay price
21 must be for the standard treatment provided for the service and may
22 include the cost of treatment for complications or exceptional treatment.

23 B. A health care facility with fifty or fewer inpatient beds must
24 make available on request or online the direct pay price for at least the
25 thirty-five most used diagnosis-related group codes, if applicable, for
26 the facility and at least the thirty-five most used outpatient service
27 codes if applicable, for the facility. The services may be identified by
28 a common procedural terminology code or by a plain-English description.
29 The health care facility must update the direct pay prices at least
30 annually based on the services from a twelve-month period that occurred
31 within the eighteen-month period preceding the annual update. The direct
32 pay price must be for the standard treatment provided for the service and
33 may include the cost of treatment for complications or exceptional
34 treatment.

35 C. Subsections A and B of this section do not apply if a discussion
36 of the direct pay price would be a violation of the federal emergency
37 medical treatment and labor act.

38 D. Veterans administration facilities, health facilities on
39 military bases, Indian health services hospitals and other Indian health
40 services facilities, tribal owned clinics and the Arizona state hospital
41 are exempt from the requirements of this section. If the director of the
42 Arizona department of health services determines that a health care
43 facility does not serve the general public, the health care facility ~~shall~~
44 ~~be~~ IS exempt from the requirements of this section if the facility does
45 not serve the general public.

1 E. Subsections A and B of this section do not prevent a health care
2 facility from offering either additional discounts or additional lawful
3 health care services for an additional cost to a person or an employer
4 paying directly.

5 F. A health care facility is not required to report the direct pay
6 prices to a government agency or department or to a government-authorized
7 or government-created entity for review. A government agency or
8 department or government-authorized or government-created entity may not
9 approve, disapprove or limit a health care facility's direct pay price for
10 services. A government agency or department or government-authorized or
11 government-created entity may not approve, disapprove or limit a health
12 care facility's ability to change the published or posted direct pay price
13 for services.

14 G. A health care system may not punish a person or employer for
15 paying directly for lawful health care services or a health care facility
16 for accepting direct payment from a person or employer for lawful health
17 care services.

18 H. Except as provided in subsection O of this section, a health
19 care facility that receives direct payment from a person or employer for a
20 lawful health care service is deemed paid in full if the entire fee for
21 the service is paid and shall not submit a claim for payment or
22 reimbursement for the service to any health care system. This subsection
23 does not prevent a health care facility from pursuing a health care lien
24 for customary charges pursuant to title 33. This subsection does not
25 affect the ability of a health care facility to submit claims for the same
26 service provided on other occasions to the same or a different person if
27 no direct payment occurs. This subsection does not require a health care
28 facility to refund or adjust any capitated payment, bundled payment or
29 other form of prepayment or global payment made by a health care system to
30 the health care facility for lawful health care services to be provided by
31 the health care facility for the person who makes, or on whose behalf an
32 employer makes, direct payment to the health care facility.

33 I. Before a health care facility that is contracted as a network
34 provider for a health care system accepts direct payment from a person or
35 an employer, and the person is an enrollee of the same health care system,
36 the health care facility shall obtain the person's or employer's signature
37 on a notice in a form that is substantially similar to the following:

38 Important notice about direct payment
39 for your health care services

40 The Arizona Constitution ~~permits~~ **ALLOWS** you to pay a
41 health care facility directly for health care services.
42 Before you make any agreement to do so, please read the
43 following important information:

44 If you are an enrollee of a health care system (more
45 commonly referred to as a health insurance plan) and your

1 health care facility is contracted with the health insurance
2 plan, the following apply:

3 1. You may not be required to pay the health care
4 facility directly for the services covered by your plan,
5 except for cost share amounts that you are obligated to pay
6 under your plan, such as copayments, coinsurance and
7 deductible amounts.

8 2. Your provider's agreement with the health insurance
9 plan may prevent the health care facility from billing you for
10 the difference between the facility's billed charges and the
11 amount allowed by your health insurance plan for covered
12 services.

13 3. If you pay directly for a health care service, your
14 health care facility will not be responsible for submitting
15 claim documentation to your health insurance plan for that
16 claim. Before paying your claim, your health insurance plan
17 may require you to provide information and submit
18 documentation necessary to determine whether the services are
19 covered under your plan.

20 4. If you do not pay directly for a health care
21 service, your health care facility may be responsible for
22 submitting claim documentation to your health insurance plan
23 for the health care service.

24 Your signature below acknowledges that you received this
25 notice before paying directly for a health care service.

26 J. A health care facility that receives direct payment for a lawful
27 health care service and that complies with subsection I of this section is
28 not responsible for submitting documentation of any kind for purposes of
29 reimbursement to any health care system for that claim if the failure to
30 submit such documentation does not conflict with the terms of any federal
31 or state contracts to which the health care system is a party and the
32 health care facility has agreed to serve patients under or with applicable
33 state or federal programs in which a health care facility and health care
34 system participate.

35 K. A health care facility that receives direct payment pursuant to
36 this section shall provide the person making the direct payment with a
37 receipt that includes the following information:

38 1. The amount of the direct payment.

39 2. The applicable procedure and diagnosis codes for the services
40 rendered.

41 3. A clear notation that the services were subject to direct
42 payment under this section.

43 L. If an enrollee pays to a health care facility that is an
44 out-of-network provider the direct pay price for a lawful health care
45 service that is covered under the enrollee's health care plan, pursuant to

1 the requirements of this section, the amount paid by the enrollee shall be
2 applied first to the enrollee's in-network deductible with any remaining
3 monies being applied to the enrollee's out-of-network deductible, if
4 applicable. The amount applied to the in-network deductible shall be the
5 amount paid directly or the insurer's prevailing contracted commercial
6 rate for the enrollee's health care plan in this state for the service or
7 services. If the service or services do not match standard codes or
8 bundled payment programs in use in this state by the insurer, the amount
9 applied to the in-network deductible shall be the amount paid directly.
10 For the purposes of this subsection, "prevailing contracted commercial
11 rate" means the most usual and customary rate that an insurer offers as
12 payment for a specific service under a specific health care plan, not
13 including a plan offered under medicare or medicaid or on a health
14 insurance exchange.

15 M. If an enrollee is enrolled in a high deductible plan that
16 qualifies the enrollee for a health savings account as defined in
17 26 United States Code section 223, the health care system is not liable if
18 the enrollee submits a claim for deductible application of a direct pay
19 amount pursuant to subsection L of this section that jeopardizes the
20 enrollee's status as an individual eligible for favorable tax treatment of
21 the health savings account.

22 N. This section does not create any private right or cause of
23 action for or on behalf of any person against the health insurer. This
24 section provides solely an administrative remedy for any violation of this
25 section or any related rule.

26 O. This section does not impair the provisions of a health care
27 system's private health care network provider contract, except that a
28 health care facility may accept direct payment from a person or employer
29 or may decline to bill the health care system directly for services paid
30 directly by a person or employer if the health care facility has complied
31 with subsection I of this section and the health care facility's receipt
32 of direct payment and the declination to bill the health care system do
33 not conflict with the terms of any federal or state contract to which the
34 health care system is a party and the health care facility has agreed to
35 serve patients under or with applicable state or federal programs in which
36 a health care facility and health care system participate.

37 P. This section may not prevent the department of health services
38 from performing an investigation of a health care facility under the
39 department's powers and duties as prescribed in this title. If a health
40 care facility fails to comply with this section, the penalty shall not
41 include the revocation of the license to deliver health care services.

42 Q. For the purposes of this section:

43 1. "Direct pay price" means the entire price that will be charged
44 by a health care facility for a lawful health care service, regardless of
45 the health insurance status of the person, if the entire fee for the

1 service is paid in full directly to a health care facility by the person,
2 including the person's health savings account, or by the person's employer
3 and that does not prohibit a facility from establishing a payment plan
4 with the person paying directly for services.

5 2. "Enrollee" means a person who is enrolled in a health care plan
6 provided by a health insurer.

7 3. "Health care facility" means a hospital, outpatient surgical
8 center, health care laboratory, diagnostic imaging center or urgent care
9 center.

10 4. "Health care plan" means a policy, contract or evidence of
11 coverage issued to an enrollee. Health care plan does not include limited
12 benefit coverage as defined in section 20-1137.

13 5. "Health care provider" means a person who is licensed pursuant
14 to title 32, chapter 7, 8, 13, 14, 16, 17, 19 or 34.

15 6. "Health care system" means a public or private entity whose
16 function or purpose is the management, processing or enrollment of
17 individuals or the payment, in full or in part, of health care services.

18 7. "Health insurer":

19 (a) Means a disability insurer, group disability insurer, blanket
20 disability insurer, health care services organization, hospital service
21 corporation, medical service corporation or hospital and medical service
22 corporation as defined in title 20.

23 (b) Does not include a governmental plan as defined in the employee
24 retirement income security act of 1974 (P.L. 93-406; 88 Stat. 829; 29
25 United States Code section 1002).

26 8. "Lawful health care services" means any health-related service
27 or treatment, to the extent that the service or treatment is permitted or
28 not prohibited by law or regulation, that may be provided by persons or
29 businesses otherwise permitted to offer the services or treatments.

30 9. "Punish" means to impose any penalty, surcharge or named fee
31 with a similar effect that is used to discourage the exercise of rights
32 under this section.

33 Sec. 7. Section 46-455, Arizona Revised Statutes, is amended to
34 read:

35 46-455. Allowing life or health of a vulnerable adult to be
36 endangered by neglect; violation; classification;
37 civil remedy; definition

38 A. A person who has been employed to provide care, who is a de
39 facto guardian or de facto conservator or who has been appointed by a
40 court to provide care to a vulnerable adult and who causes or ~~permits~~
41 **ALLOWS** the life of the adult to be endangered or that person's health to
42 be injured or endangered by neglect is guilty of a class 5 felony.

43 B. A vulnerable adult whose life or health is being or has been
44 endangered or injured by neglect, abuse or exploitation may file an action
45 in superior court against any person or enterprise that has been employed

1 to provide care, that has assumed a legal duty to provide care or that has
2 been appointed by a court to provide care to such vulnerable adult for
3 having caused or ~~permitted~~ ALLOWED such conduct. A physician licensed
4 pursuant to title 32, chapter 13, 14 or 17, a podiatrist licensed pursuant
5 to title 32, chapter 7, a registered nurse practitioner licensed pursuant
6 to title 32, chapter 15 or a physician assistant licensed pursuant to
7 title 32, chapter 25, while providing services within the scope of that
8 person's licensure, is not subject to civil liability for damages under
9 this section unless either:

10 1. At the time of the events giving rise to a cause of action under
11 this section, the person was employed or retained by the facility or
12 designated by the facility, with the consent of the person, to serve the
13 function of medical director as that term is defined or used by federal or
14 state law governing a nursing care institution, an assisted living center,
15 an assisted living facility, an assisted living home, an adult day health
16 care facility, a residential care institution, an adult care home, a
17 skilled nursing facility or a nursing facility.

18 2. At the time of the events giving rise to a cause of action under
19 this section, all of the following applied:

20 (a) The person was a physician licensed pursuant to title 32,
21 chapter 13, 14 or 17, a podiatrist licensed pursuant to title 32, chapter
22 7, a registered nurse practitioner licensed pursuant to title 32, chapter
23 15 or a physician assistant licensed pursuant to title 32, chapter 25.

24 (b) The person was the primary provider responsible for the medical
25 services to the patient while the patient was at one of the facilities
26 listed in paragraph 1 of this subsection.

27 C. Any person who was the primary provider of medical services to
28 the patient in the last two years before it was recommended that the
29 patient be admitted to one of the facilities listed in subsection B,
30 paragraph 1 of this section is exempt from civil liability for damages
31 under this section.

32 D. For the purposes of this section, primary provider does not
33 include a consultant or specialist as listed in subsection B, paragraph 2,
34 subdivision (a) of this section who is requested by the primary provider
35 to provide care to the patient for whom the primary provider is
36 responsible, unless that consultant or specialist assumes the primary care
37 of the patient.

38 E. The state may file an action pursuant to this section on behalf
39 of those persons WHO ARE endangered or injured to prevent, restrain or
40 remedy the conduct described in this section.

41 F. The superior court has jurisdiction to prevent, restrain and
42 remedy the conduct described in this section, after making provision for
43 the rights of all innocent persons affected by such conduct and after a
44 hearing or trial, as appropriate, by issuing appropriate orders.

1 G. Before a determination of liability, the orders may include, ~~but~~
2 ~~are not limited to,~~ entering restraining orders or temporary injunctions
3 or taking such other actions, including the acceptance of satisfactory
4 performance bonds, the creation of receiverships and the appointment of
5 qualified receivers and the enforcement of constructive trusts, as the
6 court deems proper.

7 H. After a determination of liability, such orders may include, ~~but~~
8 ~~are not limited to:~~

9 1. Ordering any person to divest himself of any direct or indirect
10 interest in any enterprise.

11 2. Imposing reasonable restrictions, including permanent
12 injunctions, on the future activities or investments of any person
13 including prohibiting any person from engaging in the same type of
14 endeavor or conduct to the extent ~~permitted~~ ALLOWED by the constitutions
15 of the United States and this state.

16 3. Ordering dissolution or reorganization of any enterprise.

17 4. Ordering the payment of actual and consequential damages, as
18 well as costs of suit, to those persons injured by the conduct described
19 in this section. The court or jury may order the payment of punitive
20 damages under common law principles that are generally applicable to the
21 award of punitive damages in other civil actions.

22 5. Ordering the payment of all costs and expenses of the
23 prosecution and investigation of the conduct described in this section,
24 civil and criminal, incurred by the state or county as appropriate to be
25 paid to the STATE general fund ~~of this state~~ or the GENERAL FUND OF THE
26 county that incurred such costs and expenses.

27 I. A defendant WHO IS convicted in any criminal proceeding is
28 precluded from subsequently denying the essential allegations of the
29 criminal offense of which ~~he~~ THE DEFENDANT was convicted in any civil
30 proceeding. For the purposes of this subsection, a conviction may result
31 from a verdict or plea, including a plea of no contest.

32 J. A person who files an action under this section shall serve
33 notice and one copy of the pleading on the attorney general within thirty
34 days after the action is filed with the superior court. The notice shall
35 identify the action, the person and the person's attorney. Service of the
36 notice does not limit or otherwise affect the right of this state to
37 maintain an action under this section or intervene in a pending action ~~nor~~
38 AND does ~~it~~ NOT authorize the person to name this state or the attorney
39 general as a party to the action. ~~upon~~ ON receipt of a complaint, the
40 attorney general shall notify the appropriate licensing agency.

41 K. The initiation of civil proceedings pursuant to this section
42 shall be commenced within two years after actual discovery of the cause of
43 action.

1 L. Except for the standard of proof provided in subsection H,
2 paragraph 4 of this section, the standard of proof in civil actions
3 brought pursuant to this section is the preponderance of the evidence.

4 M. Except in cases filed by a county attorney, the attorney
5 general, ~~upon~~ ON timely application, may intervene in any civil action or
6 proceeding brought under this section if the attorney general certifies
7 that in his opinion the action is of special public importance. ~~upon~~ ON
8 intervention, the attorney general may assert any available claim and is
9 entitled to the same relief as if the attorney general had instituted a
10 separate action.

11 N. In addition to the state's right to intervene as a party in any
12 action under this section, the attorney general may appear as a friend of
13 the court in any proceeding in which a claim under this section has been
14 asserted or in which a court is interpreting section 46-453 or this
15 section.

16 O. A civil action authorized by this section is remedial and not
17 punitive and does not limit and is not limited by any other civil remedy
18 or criminal action or any other provision of law. Civil remedies provided
19 under this title are supplemental and not mutually exclusive.

20 P. The cause of action or the right to bring a cause of action
21 pursuant to subsection B or E of this section shall not be limited or
22 affected by the death of the vulnerable adult.

23 Q. For the purposes of this section, "enterprise" means any
24 corporation, partnership, association, labor union or other legal entity,
25 or any group of persons associated in fact although not a legal entity,
26 that is involved with providing care to a vulnerable adult.