

PROPOSED
SENATE AMENDMENTS TO H.B. 2764
(Reference to House engrossed bill)

1 Page 3, between lines 18 and 19, insert:

2 "Sec. 3. Section 36-411, Arizona Revised Statutes, is amended to
3 read:

4 36-411. Residential care institutions; nursing care
5 institutions; home health agencies; fingerprinting
6 requirements; exemptions; definitions

7 A. Except as provided in subsection F of this section, as a
8 condition of licensure or continued licensure of a residential care
9 institution, a nursing care institution or a home health agency and as a
10 condition of employment in a residential care institution, a nursing care
11 institution or a home health agency, employees and owners of residential
12 care institutions, nursing care institutions or home health agencies,
13 contracted persons of residential care institutions, nursing care
14 institutions or home health agencies or volunteers of residential care
15 institutions, nursing care institutions or home health agencies who provide
16 medical services, nursing services, behavioral health services,
17 health-related services, home health services or direct supportive services
18 and who have not been subject to the fingerprinting requirements of a
19 health professional's regulatory board pursuant to title 32 shall have A
20 valid fingerprint clearance ~~cards~~ CARD that ~~are~~ IS issued pursuant to title
21 41, chapter 12, article 3.1 or shall apply for a fingerprint clearance card
22 within twenty working days ~~of~~ AFTER employment or beginning volunteer work
23 or contracted work.

1 B. A health professional who has complied with the fingerprinting
2 requirements of the health professional's regulatory board as a condition
3 of licensure or certification pursuant to title 32 is not required to
4 submit an additional set of fingerprints to the department of public safety
5 pursuant to this section.

6 C. Owners shall make documented, good faith efforts to:

7 1. Contact previous employers to obtain information or
8 recommendations that may be relevant to a person's fitness to work in a
9 residential care institution, nursing care institution or home health
10 agency.

11 2. Verify the current status of a person's fingerprint clearance
12 card.

13 3. BEGINNING JANUARY 1, 2025, VERIFY THAT AN EMPLOYEE OR POTENTIAL
14 EMPLOYEE IS NOT ON THE ADULT PROTECTIVE SERVICES REGISTRY PURSUANT TO
15 SECTION 46-459. IF AN EMPLOYEE IS FOUND TO BE ON THE ADULT PROTECTIVE
16 SERVICES REGISTRY, THE OWNER SHALL TAKE ACTION TO TERMINATE THE EMPLOYMENT
17 OF THAT EMPLOYEE. IF A POTENTIAL EMPLOYEE IS FOUND TO BE ON THE ADULT
18 PROTECTIVE SERVICES REGISTRY, THE OWNER MAY NOT HIRE THE POTENTIAL
19 EMPLOYEE.

20 D. An employee, an owner, a contracted person or a volunteer or a
21 facility on behalf of the employee, the owner, the contracted person or the
22 volunteer shall submit a completed application that is provided by the
23 department of public safety within twenty days after the date the person
24 begins work or volunteer service.

25 E. Except as provided in subsection F of this section, a residential
26 care institution, nursing care institution or home health agency shall not
27 allow an employee to continue employment or a volunteer or contracted
28 person to continue to provide medical services, nursing services,
29 behavioral health services, health-related services, home health services
30 or direct supportive services if the person has been denied a fingerprint
31 clearance card pursuant to title 41, chapter 12, article 3.1, has been

1 denied approval pursuant to this section before May 7, 2001 or has had a
2 fingerprint clearance card suspended or revoked.

3 F. An employee, volunteer or contractor of a residential care
4 institution, nursing care institution or home health agency who is eligible
5 pursuant to section 41-1758.07, subsection C to petition the board of
6 fingerprinting for a good cause exception and who provides documentation of
7 having applied for a good cause exception pursuant to section 41-619.55 but
8 who has not yet received a decision is exempt from the fingerprinting
9 requirements of this section if the person provides medical services,
10 nursing services, behavioral health services, health-related services, home
11 health services or direct supportive services to residents or patients
12 while under the direct visual supervision of an owner or employee who has a
13 valid fingerprint clearance card.

14 G. If a person's employment record contains a six-month or longer
15 time frame during which the person was not employed by any employer, a
16 completed application with a new set of fingerprints shall be submitted to
17 the department of public safety.

18 H. For the purposes of this section:

19 1. "Direct supportive services":

20 (a) Means services other than home health services that provide
21 direct individual care and that are not provided in a common area of a
22 health care institution, including:

23 (i) Assistance with ambulating, bathing, toileting, grooming, eating
24 and getting in and out of a bed or chair.

25 (ii) Assistance with self-administration of medication.

26 (iii) Janitorial, maintenance, housekeeping or other services
27 provided in a resident's room.

28 (iv) Transportation services, including van services.

29 (b) Does not include services provided by persons contracted
30 directly by a resident or the resident's family in a health care
31 institution.

1 services central intake unit. ~~All of~~ The ~~above~~ reports **REQUIRED BY THIS**
2 **SUBSECTION** shall be made immediately by telephone or online.

3 B. If an individual listed in subsection A of this section is an
4 employee or agent of a health care institution as defined in section 36-401
5 and the health care institution's procedures require that all suspected
6 abuse, neglect and exploitation be reported to adult protective services as
7 required by law, the individual is deemed to have complied with the
8 requirements of subsection A of this section by reporting or causing a
9 report to be made to the health care institution in accordance with the
10 health care institution's procedures.

11 C. An attorney, accountant, trustee, guardian, conservator or other
12 person who has responsibility for preparing the tax records of a vulnerable
13 adult or a person who has responsibility for any other action concerning
14 the use or preservation of the vulnerable adult's property and who, in the
15 course of fulfilling that responsibility, discovers a reasonable basis to
16 believe that abuse, neglect or exploitation of the **VULNERABLE** adult has
17 occurred shall immediately report or cause reports to be made of such
18 reasonable basis to a peace officer or to the adult protective services
19 central intake unit. ~~All of~~ The ~~above~~ reports **REQUIRED BY THIS SUBSECTION**
20 shall be made immediately by telephone or online.

21 D. Reports pursuant to subsections A and C of this section shall
22 contain:

23 1. The names and addresses of the **VULNERABLE** adult and any persons
24 having control or custody of the **VULNERABLE** adult, if known.

25 2. The **VULNERABLE** adult's age and the nature and extent of the
26 **VULNERABLE** adult's vulnerability.

27 3. The nature and extent of the abuse, neglect or exploitation.

28 4. Any other information that the person reporting believes might be
29 helpful in establishing the cause of the abuse, neglect or exploitation.

30 E. Any person other than one required to report or cause reports to
31 be made ~~in~~ **PURSUANT TO** subsection A or C of this section who has a
32 reasonable basis to believe that abuse, neglect or exploitation of a

1 vulnerable adult has occurred may report the information to a peace officer
2 or to the adult protective services central intake unit.

3 F. A person having custody or control of medical or financial
4 records of a vulnerable adult for whom a report is required or authorized
5 under this section shall make those records, or a copy of those records,
6 available to a peace officer or adult protective services worker
7 investigating the vulnerable adult's abuse, neglect or exploitation on
8 written request for the records signed by the peace officer or adult
9 protective services worker. Records disclosed pursuant to this subsection
10 are confidential and may be used only in a judicial or administrative
11 proceeding or investigation resulting from a report required or authorized
12 under this section.

13 G. If reports pursuant to this section are received by a peace
14 officer, the peace officer shall notify the adult protective services
15 central intake unit as soon as possible and make that information available
16 to them, **INCLUDING ALL RELATED POLICE RECORDS. A PEACE OFFICER SHALL**
17 **PROVIDE THE INFORMATION TO ADULT PROTECTIVE SERVICES AS SOON AS POSSIBLE.**

18 H. A person required to receive reports pursuant to subsection A, C
19 or E of this section may take or cause to be taken photographs of the
20 abused **VULNERABLE** adult and the vicinity involved. Medical examinations,
21 including radiological examinations of the involved **VULNERABLE** adult, may
22 be performed. Accounts, inventories or audits of the exploited **VULNERABLE**
23 adult's property may be performed. The person, department, agency or court
24 that initiates the photographs, examinations, accounts, inventories or
25 audits shall pay the associated costs in accordance with existing statutes
26 and rules. If any person is found to be responsible for the abuse, neglect
27 or exploitation of a vulnerable adult in a criminal or civil action, the
28 court may order the person to make restitution as the court deems
29 appropriate.

1 I. If psychiatric records are requested pursuant to subsection F of
2 this section, the custodian of the records shall notify the attending
3 psychiatrist, who may excise from the records, before they are made
4 available:

5 1. Personal information about individuals other than the patient.

6 2. Information regarding specific diagnosis or treatment of a
7 psychiatric condition, if the attending psychiatrist certifies in writing
8 that release of the information would be detrimental to the patient's
9 health or treatment.

10 J. If any portion of a psychiatric record is excised pursuant to
11 subsection I of this section, a court, on application of a peace officer or
12 adult protective services worker, may order that the entire record or any
13 portion of the record containing information relevant to the reported
14 abuse, neglect or exploitation be made available to the peace officer or
15 adult protective services worker investigating the abuse, neglect or
16 exploitation.

17 K. A licensing agency shall not find that a reported incidence of
18 abuse at a care facility by itself is sufficient grounds to allow the
19 agency to close the facility or to find that all residents are in imminent
20 danger.

21 L. Retaliation against a person who in good faith reports abuse,
22 neglect or exploitation is prohibited. Retaliation against a vulnerable
23 adult who is the subject of a report is prohibited. Any adverse action
24 taken against a person who reports abuse, neglect or exploitation or a
25 vulnerable adult who is the subject of the report within ninety days after
26 the report is filed is presumed to be retaliation.

27 M. A person who violates this section is guilty of a class 1
28 misdemeanor, except THAT if the failure to report involves an offense
29 listed in title 13, chapter 14, the person is guilty of a class 6 felony.

1 12. The executive director of the intertribal council of Arizona or
2 the executive director's designee.

3 13. One member who is currently employed at a licensed assisted
4 living facility and who is appointed by the speaker of the house of
5 representatives.

6 14. One member who is currently employed at a licensed nursing care
7 institution and who is appointed by the governor.

8 15. Two members who represent different statewide organizations that
9 advocate for elderly vulnerable adults and who are appointed by the
10 president of the senate.

11 16. One health care professional who is appointed by the speaker of
12 the house of representatives and who both:

13 (a) Is licensed pursuant to title 32, Arizona Revised Statutes.

14 (b) Provides health care services to elderly vulnerable adults.

15 B. The vulnerable adult system study committee shall:

16 1. Develop and implement a coordinated vulnerable adult delivery
17 system that ensures the health and safety of vulnerable adults.

18 2. Recommend best practices relating to responding and investigating
19 complaints.

20 3. Research best practices related to adult protective services at
21 the state, municipality and community levels.

22 4. Research and make recommendations on how the vulnerable adult
23 system can ensure that vulnerable adults receive services they require
24 after the vulnerable adult system completes its investigatory duties,
25 including assigning a specific agency the responsibility to provide or
26 coordinate case management.

27 5. Research and identify common, statewide outcomes.

28 6. Identify best practices for data collection and data sharing by
29 various entities involved in providing vulnerable adult services.

30 7. Review and recommend changes to the statutes and rules that
31 govern vulnerable adult services.

1 C. The cochairpersons may designate work groups to research, study
2 and make recommendations to the study committee.

3 D. Once a strategic direction is established, the department of
4 economic security, in conjunction with the work groups, shall develop an
5 action plan for implementation.

6 E. Public members are eligible to receive reimbursement of expenses
7 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

8 F. On or before October 1, 2025, the study committee shall submit a
9 report of its findings and recommendations to the governor, the president
10 of the senate and the speaker of the house of representatives and shall
11 provide a copy of this report to the secretary of state.

12 G. This section is repealed from and after December 31, 2025."

13 Renumber to conform

14 Amend title to conform

THOMAS "T.J." SHOPE

2764SHOPE1.docx
03/15/2024
02:01 PM
C: MH