

Explanation of the “Access to Victims to Conduct Investigations and to Provide Services: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” Chart

(Laws current as of 12/31/06)

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The chart addresses the adult protective services (APS) laws for each state, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. This explanation and the chart refer to these jurisdictions generically as “state” or “states.”

Unless otherwise indicated, this explanation (1) uses the term “abuse” generally to include abuse, neglect, and exploitation, and (2) uses “elder abuse” to include elder abuse and adult abuse.

CAUTION: This chart is based only on the state APS laws; APS regulations were not reviewed. It is important to recognize that there may be other state laws or regulations or federal laws or regulations that address the issue covered by this chart.

NOTE: A few states have multiple laws. Some of those states have separate elder protective services (EPS) laws and APS laws, and those laws are designated in the chart by following the state abbreviation with “EPS” or “APS”. Some states have more than one APS law, and those laws are designated in the chart by following the state abbreviation with #1 or #2. Unless otherwise indicated in this explanation or the chart, both APS and EPS laws will generally be referred to as APS laws.

I. Why We Developed This Chart

APS professionals sometimes face interference when they attempt to conduct an investigation of a report made about suspected elder abuse or provide services to an abused elder about whom a report has been substantiated. Interference may come from a family member, caregiver, some other individual, or from an entity such as a health care facility. A number of states have provisions in their APS laws that establish a process for APS to use to overcome such interference. Generally, the laws empower the APS agency to seek assistance from a court, a law enforcement agency, a local prosecutor or the state attorney general, or some combination thereof. Assistance in these situations may entail a court order, a search warrant, or accompaniment by a law enforcement officer when investigation or service visits are made by the APS professional. State and federal legislative staff, other policy makers, program administrators, practitioners, educators, researchers, reporters, victims and their family members, and others often want to know how many state APS laws have provisions governing access to victims by APS professionals for investigation or services, and what those laws say. The “Access to Victims to Conduct Investigations and to Provide Services: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” chart offers that information.

II. Detailed Explanation of the “Access to Victims to Conduct Investigations and to Provide Services: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” Chart

This chart contains the following three columns:

1. State. All states are included.
2. Access to Conduct Investigation. This column indicates whether a state APS law contains a provision governing an APS agency’s access to an alleged victim for the purpose of conducting an investigation. A citation is provided for each provision. If a state law contains multiple relevant provisions, citations for each provision are included. If there is no relevant provision, that is indicated.
3. Access to Provide Protective Services. This column indicates whether a state APS law contains a provision governing an APS agency’s access to an elder abuse victim for the purpose of providing protective services. A citation is provided for each provision. If a state law contains multiple relevant provisions, citations for each provision are included. If there is no relevant provision, that is indicated.

III. If You Find an Error

We strived to be consistent in our interpretation and categorization of the statutes. Despite our best efforts, we may have made errors. It is also possible that APS or other professionals interpret a statute differently than we did or there are state regulations or policies that lead to a different interpretation. Additionally, state laws may have changed since December 31, 2006. If you think we erred or your state has a regulation or policy that leads to a different interpretation, please contact Lori Stiegel of the American Bar Association Commission on Law and Aging at lstiegel@staff.abanet.org or 202-662-8692.

¹ The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

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