

**PROHIBITIONS OF RETALIATION AGAINST REPORTERS OF SUSPECTED ELDER ABUSE:
COMPARISON CHART OF PROVISIONS IN ADULT PROTECTIVE SERVICES LAWS WITH CITATIONS, BY STATE**

(Laws current as of 12/31/06)

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Research conducted on Westlaw compliments of West Group

CAUTION: Read the explanation of this chart before relying upon the chart. You can find the explanation online at
<http://www.abanet.org/aging/about/elderabuse.shtml>

STATE	CIVIL LIABILITY	CRIMINAL PENALTIES	STATUTORY PROVISION(S) AND CITATION(S)
Alabama			There is no statutory provision.
Alaska	X		An employer or supervisor of a person who in good faith makes a report under AS 47.24.010 may not discharge, demote, transfer, reduce pay or benefits or work privileges of, prepare a negative work performance evaluation of, or take other detrimental action against the person because the person made the report. The person making the report may bring a civil action for compensatory and punitive damages against an employer or supervisor who violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action by the employer or supervisor was retaliatory if it was taken within 90 days after the report was made. Alaska Stat. § 47.24.120(b)
Arizona			There is no statutory provision.
Arkansas (#1) Ark. Code Ann. §§ 12-12-1701 – 12-12-1721 (<i>relating to reporting & investigation</i>)			There is no statutory provision.
Arkansas (#2) Ark. Code Ann. §§ 9-20-101 – 9-20-121 (<i>authorizing APS to take victims into protective custody</i>)			There is no statutory provision.
California			The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent

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			with this chapter. Cal. Welf. & Inst. Code § 15630(f)
Colorado			No person shall take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report of suspected mistreatment or neglect of an at-risk adult. Colo. Rev. Stat. Ann. § 26-3.1-102(6) No person shall take any discriminatory, disciplinary, or retaliatory action against any person who, in good faith, makes a report of known or suspected financial exploitation of an at-risk adult. Colo. Rev. Stat. Ann. § 26-3.1-204(6)
Connecticut	X		Any person who is discharged or in any manner discriminated or retaliated against for making, in good faith, a report pursuant to this section shall be entitled to all remedies available under law including, but not limited to, remedies available under sections 19a-532 and 31-51m, as applicable. Conn. Gen. Stat. Ann. § 17b-451(e)
Delaware			There is no statutory provision.
District of Columbia	X		Any person who, because of a report made under § 7-1903 or testimony given in support of the allegations contained in such a report, retaliates against any other person by taking action that adversely affects the latter's rights, privileges, living arrangement, or terms of employment shall be civilly liable for any damages caused by that retaliation and, in addition, subject to punitive damages not exceeding \$5,000. D.C. Code Ann. tit. 31, § 7-1912(a)(4)
Florida	X		(1) ... Further, a resident or employee of a facility that serves vulnerable adults may not be subjected to reprisal or discharge because of the resident's or employee's actions in reporting abuse, neglect, or exploitation pursuant to s. 415.1034. (2) Any person who makes a report under s. 415.1034 has a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of the reporting party's making the report. Any detrimental change made in the residency or employment status of such a person, such as, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations, within 120 days after the report is made establishes a rebuttable presumption that the detrimental action was retaliatory. Fla. Stat. Ann. § 415.1036
Georgia			There is no statutory provision.
Guam			There is no statutory provision.
Hawaii			There is no statutory provision.
Idaho			There is no statutory provision.

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Illinois			No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected elder abuse, neglect, or financial exploitation or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected elder abuse, neglect, or financial exploitation. 320 Ill. Comp. Stat. § 20/4.1
Indiana			An employer may not discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action to retaliate against an employee who in good faith files a report under this chapter. Ind. Code Ann. § 12-10-3-11(c)
Iowa		X	It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 5, or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor. Iowa Code Ann. § 235B.3(11)
Kansas	X		No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report, or cooperated with an investigation, under this act. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection. Kan. Stat. Ann. § 39-1432(b)
Kentucky			There is no statutory provision.
Louisiana			There is no statutory provision.
Maine			The duty to report under this subsection applies to individuals who must report directly to the department [of health and human services]. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate, ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are not inconsistent with this chapter. Me. Rev. Stat. Ann. tit. 22, § 3477(1)

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Maryland			There is no statutory provision.
Massachusetts (EPS) Mass. Gen. Laws Ann. ch. 19A, §§ 14 – 26 (<i>applicable to persons who are 60 or older</i>)			... No employer or supervisor may discharge, demote, transfer, reduce pay, benefits or work privileges, prepare a negative work performance evaluation, or take any other action detrimental to an employee or supervisee who files a report in accordance with the provisions of this section by reason of such report. Mass. Gen. Laws Ann. ch. 19A, § 15(d)
Massachusetts (APS) Mass. Gen. Laws ch. 19C, §§ 1 – 13 (<i>applicable to persons with disabilities</i>)	X	X	<p>No person shall discharge or cause to be discharged or otherwise discipline or in any manner discriminate against or thereafter take any other retaliatory action against any employee, client or other person for filing a report with the commission or testifying in any commission proceeding or providing information to the commission, the general counsel or the secretary of health and human services or any department, office, commission or other agency within the executive office of health and human services in the course of an investigation of alleged abuse of a disabled person. Any person who willfully violates this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 1 year, or both. In addition, any person who takes such prohibited action against an employee, client or other person may be liable to that employee, client or other person for treble damages, costs and attorney's fees.</p> <p>A violation of an employee's rights under this section shall constitute a prohibited retaliatory action under subsection (b) of section 185 of chapter 149 if the employee is an employee for purposes of said section 185. The institution of a private action in accordance with this section by any such employee shall be deemed a waiver by the employee of the rights and remedies available to that employee under said section 185, and the institution of such an action under said section 185 shall be deemed a waiver of the rights and remedies available to that employee under this section. A person who willfully files a false report of abuse with the commission or willfully testifies falsely or willfully provides the commission or any designated investigating agency with false information in the course of an investigation or any other commission proceeding shall not be afforded the protections of this section. Upon receiving a report or other information pursuant to this section, the commission shall inform the person providing the report, testifying or providing information of that person's rights under this section and under section 185 of chapter 149 in writing. The commission may seek enforcement of the criminal provisions of this section. Mass. Gen. Laws Ann. ch. 19C, § 11</p>
Michigan			There is no statutory provision.

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Minnesota	X		<p>A facility may not prohibit a mandated reporter from reporting externally, and a facility is prohibited from retaliating against a mandated reporter who reports an incident to the common entry point in good faith. The written notice by the facility must inform the mandated reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally. Minn. Stat. Ann. § 626.557, Subd. 4a(d)</p> <p>(a) A facility or person shall not retaliate against any person who reports in good faith suspected maltreatment pursuant to this section, or against a vulnerable adult with respect to whom a report is made, because of the report. (b) In addition to any remedies allowed under sections 181.931 to 181.935, any facility or person which retaliates against any person because of a report of suspected maltreatment is liable to that person for actual damages, punitive damages up to \$10,000, and attorney's fees. (c) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse action" refers to action taken by a facility or person involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to: (1) discharge or transfer from the facility; (2) discharge from or termination of employment; (3) demotion or reduction in remuneration for services; (4) restriction or prohibition of access to the facility or its residents; or (5) any restriction of rights set forth in section 144.651. Minn. Stat. Ann. § 626.557, Subd. 16</p>
Mississippi			<p>No person shall terminate from employment, demote, reject for promotion or otherwise sanction, punish or retaliate against any individual who, in good faith, makes a report as provided in this section or who testifies in any official proceeding regarding matters arising out of this section. Miss. Code Ann. § 43-47-37(5)(b)</p>
<p>Missouri (#1) Mo. Ann. Stat. §§ 660.250 – 660.295 (<i>applicable only to persons who are unable to protect their own interests or adequately perform or obtain services necessary to meet their essential human needs</i>)</p>			<p>There is no statutory provision.</p>

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<i>and are either: (1) 60 or older, or (2) between 18 and 59 and have a disability)</i>			
<p>Missouri (#2) Mo. Ann. Stat. §§ 660.300 – 660.321 <i>(these provisions are applicable only to individuals who are receiving “in home services” as defined by § 660.250(9) “through any in-home services provider agency” as defined by § 660.250(11). Missouri does not have two statutes. We established this construct to distinguish in the charts between the provisions applicable to individuals who are receiving in home services and those who are not. The statute indicated that the definitions contained in 660.250 apply to what we have labeled as Missouri #2; 660.300 – 660.321.)</i></p>			<p>No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he has reasonable cause to believe has been committed or has occurred. Mo. Ann. Stat. § 660.300(11)</p> <hr/> <p>No person who directs or exercises any authority in an in-home services provider agency shall harass, dismiss or retaliate against an in-home services client or employee because he or she or any member of his or her family has made a report of any violation or suspected violation of laws, ordinances or regulations applying to the in-home services provider agency or any in-home services employee which he or she has reasonable cause to believe has been committed or has occurred. Mo. Ann. Stat. § 660.305(9)</p>
Montana			There is no statutory provision.
Nebraska			There is no statutory provision.
Nevada			There is no statutory provision.
New Hampshire			There is no statutory provision.
New Jersey	X		An employer or any other person shall not take any discriminatory or retaliatory action against an individual who reports abuse, neglect or exploitation pursuant to this act. An employer or any other person shall not discharge, demote or reduce the salary of an employee because the employee reported information in good faith pursuant to this act. A person who violates this subsection is liable for a fine of up to \$1,000. N.J. Stat. Ann. § 52:27D-409(d)

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New Mexico			There is no statutory provision.
New York			There is no statutory provision.
North Carolina			There is no statutory provision.
North Dakota	X	X	<p>1. An employer who imposes any form of discipline or retaliation against an employee solely because the employee reported in good faith having knowledge of or reasonable cause to suspect that a vulnerable adult is or has been abused or neglected, or because the employee is a vulnerable adult with respect to whom a report was made, is guilty of a class B misdemeanor.</p> <p>2. The employer of a person permitted to report pursuant to section 50-25.2- 12 who retaliates against the person because of a report is liable to that person in a civil action for all damages.</p> <p>3. A rebuttable presumption that retaliation has occurred arises when an adverse action is taken within ninety days of the report. An adverse action includes: a. The discharge from or termination of employment; b. The demotion, negative work performance evaluation, reduction of hours worked, reduction of benefits or work privileges, or reduction in remuneration for services of the employee; or c. The restriction or prohibition of access by the employee to any place of employment or persons affiliated with the place of employment. N.D. Cent. Code § 50-25.2-11</p>
Ohio			No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this section. Ohio Rev. Code Ann. § 5101.61(E)
Oklahoma	X		No employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection. Okla Stat. Ann. tit. 43A, § 10-104(H)
	X		No employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act. A

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			court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection. Okla Stat. Ann. tit. 43A, § 10-104(K)
Oregon (EPS) Or. Rev. Stat. §§ 124.050 – 124.095 (<i>applicable to persons 65 or older who are not residents of long-term care facilities</i>)			There is no statutory provision.
Oregon (APS) Or. Rev. Stat. §§ 430.735 – 430.768 (<i>applicable only to persons 18 or older who are mentally ill or developmentally disabled and receive services from a community program or facility</i>)	X		<p>(1) A facility, community program or person shall not retaliate against any person who reports in good faith suspected abuse or against the allegedly abused adult with respect to any report.</p> <p>(2) Any facility, community program or person that retaliates against any person because of a report of suspected abuse shall be liable in a private action to that person for actual damages and, in addition, a penalty up to \$1,000, notwithstanding any other remedy provided by law.</p> <p>(3)(a) Any adverse action is evidence of retaliation if taken within 90 days of a report.</p> <p>(b) For purposes of this subsection, “adverse action” means any action taken by a facility, community program or person involved in a report against the person making the report or against the adult with respect to whom the report was made because of the report, and includes but is not limited to:</p> <p>(A) Discharge or transfer from the facility, except for clinical reasons;</p> <p>(B) Discharge from or termination of employment;</p> <p>(C) Demotion or reduction in remuneration for services; or</p> <p>(D) Restriction or prohibition of access to the facility or its residents. Or. Rev. Stat. § 430.755</p>
Pennsylvania	X		Any person making a report or cooperating with the agency, including providing testimony in any administrative or judicial proceeding, and the victim shall be free from any discriminatory, retaliatory or disciplinary action by an employer or by any other person or entity. Any person who violates this subsection is subject to a civil lawsuit by the reporter or the victim wherein the reporter or victim shall recover treble compensatory damages, compensatory and punitive damages or \$5,000, whichever is greater. 35 Pa. Cons. Stat. Ann. § 10225.302(c)
Puerto Rico			There is no statutory provision.

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Rhode Island			There is no statutory provision.
South Carolina			It is against the public policy of South Carolina to change an employee's status solely because the employee reports or cooperates with an investigation or action taken under this chapter. S.C. Code Ann. § 43-35-75(B)
South Dakota			There is no statutory provision.
Tennessee	X		... Any person making a report under the provisions of this part shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes a detrimental change in the employment status of the reporting party by reason of the report. Tenn. Code Ann. § 71-6-105
Texas			There is no statutory provision.
Utah		X	Under circumstances not amounting to a violation of Section 76-8-508, a person who threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report, a witness, the person who made the report, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a class B misdemeanor. Utah Code Ann. § 62A-3-305(5)
Vermont	X		No employer or supervisor may discharge, demote, transfer, reduce pay, benefits or work privileges, prepare a negative work performance evaluation or take any other action detrimental to any employee who files a good faith report in accordance with the provisions of this chapter, by reason of the report. Any person making a report under this chapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report. Vt. Stat. Ann. tit. 33, § 6909
Virgin Islands			... No employer or supervisor may discharge, demote, transfer, reduce pay, benefits or work privileges, prepare a negative work performance evaluation, or take any other action detrimental to an employee or supervisor who files a report in accordance with this section by reason of such report. 34 V.I. Code Ann. § 453(d)
Virginia			There is no statutory provision.
Washington	X		(1) An employee or contractor who is a whistleblower and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action, has the remedies provided under chapter 49.60 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to persons who communicate to government agencies, apply to complaints made under this section. The identity of a whistleblower who complains, in good faith, to the department or the department of health about suspected abandonment, abuse, financial exploitation, or neglect by

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			<p>any person in a facility, licensed or required to be licensed, or care provided in a facility or in a home setting, by any person associated with a hospice, home care, or home health agency licensed under chapter 70.127 RCW or other in-home provider, may remain confidential if requested. The identity of the whistleblower shall subsequently remain confidential unless the department determines that the complaint was not made in good faith.</p> <p>(2)(a) An attempt to expel a resident from a facility, or any type of discriminatory treatment of a resident who is a consumer of hospice, home health, home care services, or other in-home services by whom, or upon whose behalf, a complaint substantiated by the department or the department of health has been submitted to the department or the department of health or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of the action, raises a rebuttable presumption that the action was in retaliation for the filing of the complaint.</p> <p>(b) The presumption is rebutted by credible evidence establishing the alleged retaliatory action was initiated prior to the complaint.</p> <p>(c) The presumption is rebutted by a review conducted by the department that shows that the resident or consumer's needs cannot be met by the reasonable accommodations of the facility due to the increased needs of the resident.</p> <p>(3) For the purposes of this section:</p> <p>(a) "Whistleblower" means a resident or a person with a mandatory duty to report under this chapter, or any person licensed under Title 18 RCW, who in good faith reports alleged abandonment, abuse, financial exploitation, or neglect to the department, or the department of health, or to a law enforcement agency;</p> <p>(b) "Workplace reprisal or retaliatory action" means, but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct under Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; denial of employment; or a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower. The protections provided to whistleblowers under this chapter shall not prevent a facility or an agency licensed under chapter 70.127 RCW from:</p> <p>(i) Terminating, suspending, or disciplining a whistleblower for other lawful purposes; or (ii) for facilities licensed under chapter 70.128 RCW, reducing the hours of employment or terminating employment as a result of the demonstrated inability to meet payroll requirements. The department shall determine if the</p>

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			<p>facility cannot meet payroll in cases in which a whistleblower has been terminated or had hours of employment reduced because of the inability of a facility to meet payroll; and</p> <p>(c) “Reasonable accommodation” by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.</p> <p>(4) This section does not prohibit a facility or an agency licensed under chapter 70.127 RCW from exercising its authority to terminate, suspend, or discipline any employee who engages in workplace reprisal or retaliatory action against a whistleblower.</p> <p>(5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under this chapter. Wash. Rev. Code Ann. §§ 74.34.180(1) – 74.34.180(5)</p>
West Virginia			<p>No nursing home may discharge or in any manner discriminate against any resident, family member, legal representative or employee for the reason that he or she filed a complaint or participated in any matter or proceeding stemming from the provisions of this article. W.Va. Code § 9-6-12(b)</p>
<p>Wisconsin (EPS) Wis. Stat. Ann. § 46.90 <i>(applicable to persons who are 60 or older)</i></p>	X		<p>1.a. No person may discharge or otherwise retaliate or discriminate against any person for reporting in good faith under this subsection.</p> <p>1.b. No person may discharge or otherwise retaliate or discriminate against any individual on whose behalf another person has reported in good faith under this subsection.</p> <p>1.cm. Any discharge of a person or act of retaliation or discrimination that is taken against a person who makes a report under this subsection, within 120 days after the report is made, establishes a rebuttable presumption that the discharge or act is made in response to the report. This presumption may be rebutted by a preponderance of evidence that the discharge or act was not made in response to the report.</p> <p>2.b. Any employee who is discharged or otherwise discriminated against may file a complaint with the department of workforce development under s. 106.54 (5).</p> <p>2.c. Any person not described in subd. 2. b. who is retaliated or discriminated against in violation of subd. 1. a. or b. may commence an action in circuit court for damages incurred as a result of the violation.</p>

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<p>Wisconsin (APS) Wis. Stat. Ann. §§ 55.001 – 55.23 (<i>applicable to adults with disabilities</i>)</p>	<p>X</p>		<p>Wis. Stat. Ann. § 46.90(4)(b)1.a. – 2.c</p> <p>1.a. No person may discharge or otherwise retaliate or discriminate against any person for reporting in good faith under this subsection.</p> <p>1.b. No person may discharge or otherwise retaliate or discriminate against any individual on whose behalf another person has reported in good faith under this subsection.</p> <p>1.d. Any discharge of a person or act of retaliation or discrimination that is taken against a person who makes a report under this subsection, within 120 days after the report is made, establishes a rebuttable presumption that the discharge or act is made in response to the report. This presumption may be rebutted by a preponderance of evidence that the discharge or act was not made in response to the report.</p> <p>2.b. Any employee of an employer who is discharged or otherwise discriminated against may file a complaint with the department of workforce development under s. 106.54 (5).</p> <p>2.c. Any person not described in subd. 2. b. who is retaliated or discriminated against in violation of subd. 1. a. or b. may commence an action in circuit court for damages incurred as a result of the violation. Wis. Stat. Ann. § 55.043(1m)(c)1.a – 2.c</p>
<p>Wyoming</p>			<p>There is no statutory provision.</p>

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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