

Explanation of the “Prohibitions of Retaliation Against Reporters of Suspected Elder Abuse: 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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Research conducted on Westlaw compliments of West Group

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

An individual who reports suspected elder abuse, whether acting voluntarily or pursuant to a statutory mandate, may face retaliation from an employer or another person for having made the report. Some state APS laws contain provisions prohibiting such retaliation. The term “retaliation” is used broadly in the chart and explanation; many of the statutes prohibit discriminatory, disciplinary, or retaliatory actions, and some of the statutes specify what those actions might include. Some of those provisions also indicate that employers or others who retaliate against a reporter may be subject to civil liability or criminal penalties.

This issue of prohibiting retaliation against an individual who makes a report is different from the issue of protecting an individual who makes a report in good faith from liability, which is the subject of a separate chart. The issues may be related, however, because some of the statutory provisions prohibiting retaliation indicate that only individuals who report in good faith are protected from retaliation. For more information about the provisions governing good faith reporting, see the “Immunity for Good Faith Reporting Provisions and Citations in Adult Protective Services Laws, by State” chart; the “Immunity for Good Faith Reporting: Criteria in Adult Protective Services Laws, by State” chart; and the “Explanation of the ‘Immunity for Good Faith Reporting Provisions and Citations in Adult Protective Services Laws, by State’ and ‘Immunity for Good Faith Reporting: Criteria in Adult Protective Services Laws, by State’ Charts.” Those documents are available on <http://www.abanet.org/aging/about/elderabuse.shtml>.

State and federal legislative staff, other policy makers, program administrators, practitioners, educators, researchers, reporters, and others often want to know how many state APS laws contain provisions prohibiting retaliation against individuals who make reports to APS and what those laws say about civil and criminal penalties. The “Prohibitions of Retaliation Against Reporters of Suspected Elder Abuse: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” chart offers that information.

II. Detailed Explanation of the “Prohibitions of Retaliation Against Reporters of Suspected Elder Abuse: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” Chart

This chart contains the following four columns:

1. State. All states are included.
2. Civil Liability. This column indicates with an “X” those provisions that address civil liability for individuals who commit retaliatory actions.
3. Criminal Penalties. This column indicates with an “X” those provisions that address criminal penalties against individuals who commit retaliatory actions.
4. Statutory Provision(s) and Citation(s). The pertinent statutory provision(s) and citation(s) prohibiting retaliation against individuals who report suspected elder abuse to APS agencies are presented in this column. They are copied verbatim from the state laws, unless indicated otherwise with brackets. Some state laws contain multiple relevant provisions. All are provided; they are separated by a line. A citation is provided for each provision.

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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