

Explanation of the “Confidentiality of Information and Records: 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

The issue of confidentiality of information and records is critical to APS professionals and to the victims, reporters, witnesses, collateral sources, and other agencies with which APS professionals have contact. It is a complex issue that may arise in multiple contexts. Confidentiality laws may enhance the safety of victims, reporters, witnesses, and collateral sources and their willingness to share information with an APS professional. On the other hand, confidentiality laws may prohibit individual sources of information from sharing that information with an APS professional or another investigator. Confidentiality laws may enhance or inhibit the ability of APS professionals and other agencies to obtain information from or share information with each other, which may affect an investigation or the functioning of a multidisciplinary team.

Some states have relatively simple confidentiality provisions, and others have complex provisions. Some provisions address one context, and others address multiple contexts. Only one state has no confidentiality provisions in its APS law.

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 confidentiality of information and records, and what those laws say. The “Confidentiality of Information and Records: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” chart offers that information.

II. Detailed Explanation of the “Confidentiality of Information and Records: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” Chart

This chart contains the following two columns:

1. State. All states are included.
2. Citation(s). This column indicates whether a state APS law contains a provision governing confidentiality of information and records. 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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