

Explanation of the “Criminal Background Checks: Provisions and Citations in Adult Protective Services Laws, 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

Criminal background checks of individuals who serve as caregivers or in some other capacity with vulnerable older persons are commonly touted as a way of preventing elder abuse. Only a few APS laws contain provisions regarding criminal background checks, however, and the existing provisions vary. In some states, the provisions are in the APS law, but the checks are not conducted by or related to the function of the APS staff. In other states, the APS agency has some role in conducting or contributing information for the criminal background checks.

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 about criminal background checks and what those laws say. The “Criminal Background Checks: Provisions and Citations in Adult Protective Services Laws, by State” chart offers that information.

II. Detailed Explanation of the “Criminal Background Checks: Provisions and Citations in Adult Protective Services Laws, by State” Chart

This chart contains the following two columns:

1. State. A small number of state APS laws contain provisions regarding criminal background checks. This chart only includes states that have such provisions.
2. Statutory Provision(s) and Citation(s). The pertinent statutory provision(s) and citation(s) addressing criminal background checks 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.

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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