

Explanation of the “Emergency or Involuntary Services to Victims: 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

Adults who have decision-making capacity have the right to accept or refuse an investigation by or services from an APS agency. Situations arise, however, in which an APS professional believes that a subject of a report needs protective services but lacks decision-making capacity to consent to those services. Additionally, situations also arise in which an APS professional believes that emergency intervention is necessary to protect the older person from immediate or severe harm regardless of the person’s decision-making capacity. Many state APS laws grant authority to APS professionals and other agencies, such as law enforcement or courts, to intervene in these situations through the provision of emergency or involuntary services. The laws usually also set forth procedures for such interventions. State and federal legislative staff, other policy makers, program administrators, practitioners, educators, researchers, reporters, victims or their family members, and others often want to know what state APS laws have provisions governing the provision of emergency or involuntary protective services to victims and what those laws say. The “Emergency or Involuntary Services to Victims: Comparison Chart of Provisions in Adult Protective Services Laws with Citations, by State” chart offers that information.

II. Detailed Explanation of the “Emergency or Involuntary Services to Victims: 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. Emergency – Citation(s). This column indicates whether a state APS law contains a provision authorizing an APS agency to provide emergency services to a victim of elder abuse. 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. Involuntary – Citation(s). This column indicates whether a state APS law contains a provision authorizing an APS agency to provide involuntary services to a victim of elder abuse. 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.

The line between emergency and involuntary services is not always clear. Emergency services are generally involuntary, but in some states they may also be voluntary. The words “emergency” or “involuntary” are not always used in the statutory provisions, and sometimes emergency services are referred to as involuntary services. Judgments were made about classifying the statutory provisions. If the statute did not use the word “emergency” but instead used terms such as “immediate” or “imminent” or imposed time limitations (e.g., 72 hours) on the intervention, we listed the provision(s) in the emergency category. Additionally, sometimes both emergency and involuntary provisions are included in the same section of the statute so there are states for which the same statutory citation is provided in both the second and third columns.

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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