

House Engrossed  
**FILED**

**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

CHAPTER 64  
**HOUSE BILL 2444**

AN ACT

AMENDING TITLE 12, CHAPTER 13, ARTICLE 4, ARIZONA REVISED STATUTES, BY  
ADDING SECTION 12-2240; AMENDING SECTION 13-3620, ARIZONA REVISED  
STATUTES; RELATING TO SEXUAL ASSAULT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 13, article 4, Arizona Revised  
3 Statutes, is amended by adding section 12-2240, to read:

4 12-2240. Sexual assault victim advocate; privilege;  
5 exception; training; supervision; definition

6 A. IN A CIVIL ACTION, A SEXUAL ASSAULT VICTIM ADVOCATE SHALL NOT BE  
7 EXAMINED AS TO ANY COMMUNICATION MADE BY THE SEXUAL ASSAULT VICTIM TO THE  
8 SEXUAL ASSAULT VICTIM ADVOCATE.

9 B. THIS SECTION DOES NOT APPLY TO:

10 1. A CIVIL ACTION BROUGHT PURSUANT TO TITLE 36, CHAPTER 37,  
11 RELATING TO THE CIVIL COMMITMENT OF SEXUALLY VIOLENT PERSONS.

12 2. A SEXUAL ASSAULT VICTIM ADVOCATE'S DUTY TO REPORT PURSUANT TO  
13 SECTION 13-3620.

14 C. UNLESS THE SEXUAL ASSAULT PROGRAM OR SERVICE PROVIDER HAS  
15 IMMUNITY UNDER OTHER PROVISIONS OF LAW, THE COMMUNICATION IS NOT  
16 PRIVILEGED IF THE SEXUAL ASSAULT VICTIM ADVOCATE KNOWS OR SHOULD HAVE  
17 KNOWN THAT THE VICTIM WILL GIVE OR HAS GIVEN PERJURIOUS STATEMENTS OR  
18 STATEMENTS THAT WOULD TEND TO DISPROVE THE EXISTENCE OF SEXUAL ASSAULT.

19 D. A PARTY TO AN ACTION MAY MAKE A MOTION FOR DISCLOSURE OF  
20 PRIVILEGED INFORMATION UNDER THIS SECTION AND, IF THE COURT FINDS  
21 REASONABLE CAUSE, THE COURT SHALL HOLD A HEARING IN CAMERA AS TO WHETHER  
22 THE PRIVILEGE SHOULD APPLY.

23 E. TO QUALIFY FOR THE PRIVILEGE PRESCRIBED IN THIS SECTION, A  
24 SEXUAL ASSAULT VICTIM ADVOCATE MUST HAVE AT LEAST THIRTY HOURS OF TRAINING  
25 IN ASSISTING VICTIMS OF SEXUAL ASSAULT. A PORTION OF THIS TRAINING MUST  
26 INCLUDE AN EXPLANATION OF PRIVILEGED COMMUNICATION AND THE REPORTING  
27 REQUIREMENTS PRESCRIBED IN SECTION 13-3620. THE TRAINING MAY BE PROVIDED  
28 BY THE SEXUAL ASSAULT PROGRAM OR SERVICE PROVIDER OR BY AN OUTSIDE AGENCY  
29 THAT ISSUES A CERTIFICATE OF COMPLETION. THE RECORDS CUSTODIAN OF THE  
30 SEXUAL ASSAULT PROGRAM OR SERVICE PROVIDER MUST MAINTAIN THE TRAINING  
31 DOCUMENTS.

32 F. A SEXUAL ASSAULT VICTIM ADVOCATE WHO IS A VOLUNTEER SHALL  
33 PERFORM ALL ACTIVITIES UNDER QUALIFIED SUPERVISION.

34 G. FOR THE PURPOSES OF THIS SECTION, "SEXUAL ASSAULT VICTIM  
35 ADVOCATE" MEANS A PERSON WHO IS AN EMPLOYEE OF OR VOLUNTEER AT A SEXUAL  
36 ASSAULT PROGRAM OR SERVICE PROVIDER FOR VICTIMS OF SEXUAL ASSAULT AND WHO  
37 MEETS THE TRAINING REQUIREMENTS OF THIS SECTION.

38 Sec. 2. Section 13-3620, Arizona Revised Statutes, is amended to  
39 read:

40 13-3620. Duty to report abuse, physical injury, neglect and  
41 denial or deprivation of medical or surgical care  
42 or nourishment of minors; medical records;  
43 exception; violation; classification; definitions

44 A. Any person who reasonably believes that a minor is or has been  
45 the victim of physical injury, abuse, child abuse, a reportable offense or

1 neglect that appears to have been inflicted on the minor by other than  
2 accidental means or that is not explained by the available medical history  
3 as being accidental in nature or who reasonably believes there has been a  
4 denial or deprivation of necessary medical treatment or surgical care or  
5 nourishment with the intent to cause or allow the death of an infant who  
6 is protected under section 36-2281 shall immediately report or cause  
7 reports to be made of this information to a peace officer, to the  
8 department of child safety or to a tribal law enforcement or social  
9 services agency for any Indian minor who resides on an Indian reservation,  
10 except if the report concerns a person who does not have care, custody or  
11 control of the minor, the report shall be made to a peace officer only. A  
12 member of the clergy, a christian science practitioner or a priest who has  
13 received a confidential communication or a confession in that person's  
14 role as a member of the clergy, as a christian science practitioner or as  
15 a priest in the course of the discipline enjoined by the church to which  
16 the member of the clergy, the christian science practitioner or the priest  
17 belongs may withhold reporting of the communication or confession if the  
18 member of the clergy, the christian science practitioner or the priest  
19 determines that it is reasonable and necessary within the concepts of the  
20 religion. This exemption applies only to the communication or confession  
21 and not to personal observations the member of the clergy, the christian  
22 science practitioner or the priest may otherwise make of the minor. For  
23 the purposes of this subsection, "person" means:

24 1. Any physician, physician's assistant, optometrist, dentist,  
25 osteopath, chiropractor, podiatrist, behavioral health professional,  
26 nurse, psychologist, counselor or social worker who develops the  
27 reasonable belief in the course of treating a patient.

28 2. Any peace officer, child welfare investigator, child safety  
29 worker, member of the clergy, priest or christian science practitioner.

30 3. The parent, stepparent or guardian of the minor.

31 4. School personnel, or domestic violence victim advocates OR  
32 SEXUAL ASSAULT VICTIM ADVOCATES who develop the reasonable belief in the  
33 course of their employment.

34 5. Any other person who has responsibility for the care or  
35 treatment of the minor.

36 B. A report is not required under this section either:

37 1. For conduct prescribed by sections 13-1404 and 13-1405 if the  
38 conduct involves only minors who are fourteen, fifteen, sixteen or  
39 seventeen years of age and there is nothing to indicate that the conduct  
40 is other than consensual.

41 2. If a minor is of elementary school age, the physical injury  
42 occurs accidentally in the course of typical playground activity during a  
43 school day, occurs on the premises of the school that the minor attends  
44 and is reported to the legal parent or guardian of the minor and the  
45 school maintains a written record of the incident.

1 C. If a physician, psychologist or behavioral health professional  
2 receives a statement from a person other than a parent, stepparent,  
3 guardian or custodian of the minor during the course of providing sex  
4 offender treatment that is not court ordered or that does not occur while  
5 the offender is incarcerated in the state department of corrections or the  
6 department of juvenile corrections, the physician, psychologist or  
7 behavioral health professional may withhold the reporting of that  
8 statement if the physician, psychologist or behavioral health professional  
9 determines it is reasonable and necessary to accomplish the purposes of  
10 the treatment.

11 D. Reports shall be made immediately either electronically or by  
12 telephone. The reports shall contain the following information, if known:

13 1. The names and addresses of the minor and the minor's parents or  
14 the person or persons having custody of the minor.

15 2. The minor's age and the nature and extent of the minor's abuse,  
16 child abuse, physical injury or neglect, including any evidence of  
17 previous abuse, child abuse, physical injury or neglect.

18 3. Any other information that the person believes might be helpful  
19 in establishing the cause of the abuse, child abuse, physical injury or  
20 neglect.

21 E. A health care professional who is regulated pursuant to title 32  
22 and who, after a routine newborn physical assessment of a newborn infant's  
23 health status or following notification of positive toxicology screens of  
24 a newborn infant, reasonably believes that the newborn infant may be  
25 affected by the presence of alcohol or a drug listed in section 13-3401  
26 shall immediately report this information, or cause a report to be made,  
27 to the department of child safety. For the purposes of this subsection,  
28 "newborn infant" means a newborn infant who is under thirty days of age.

29 F. Any person other than one required to report or cause reports to  
30 be made under subsection A of this section who reasonably believes that a  
31 minor is or has been a victim of abuse, child abuse, physical injury, a  
32 reportable offense or neglect may report the information to a peace  
33 officer or to the department of child safety, except if the report  
34 concerns a person who does not have care, custody or control of the minor,  
35 the report shall be made to a peace officer only.

36 G. A person who has custody or control of medical records of a  
37 minor for whom a report is required or authorized under this section shall  
38 make the records, or a copy of the records, available to a peace officer,  
39 child welfare investigator or child safety worker investigating the  
40 minor's neglect, child abuse, physical injury or abuse on written request  
41 for the records signed by the peace officer, child welfare investigator or  
42 child safety worker. Records disclosed pursuant to this subsection are  
43 confidential and may be used only in a judicial or administrative  
44 proceeding or investigation resulting from a report required or authorized  
45 under this section.

1 H. When reports are received by a peace officer, the officer shall  
2 immediately notify the department of child safety. Notwithstanding any  
3 other statute, when the department receives these reports, it shall  
4 immediately notify a peace officer in the appropriate jurisdiction.

5 I. Any person who is required to receive reports pursuant to  
6 subsection A of this section may take or cause to be taken photographs of  
7 the minor and the vicinity involved. Medical examinations of the involved  
8 minor may be performed.

9 J. A person who furnishes a report, information or records required  
10 or authorized under this section, or a person who participates in a  
11 judicial or administrative proceeding or investigation resulting from a  
12 report, information or records required or authorized under this section,  
13 is immune from any civil or criminal liability by reason of that action  
14 unless the person acted with malice or unless the person has been charged  
15 with or is suspected of abusing or neglecting the child or children in  
16 question.

17 K. Except for the attorney client privilege or the privilege under  
18 subsection L of this section, no privilege applies to any:

19 1. Civil or criminal litigation or administrative proceeding in  
20 which a minor's neglect, dependency, abuse, child abuse, physical injury  
21 or abandonment is an issue.

22 2. Judicial or administrative proceeding resulting from a report,  
23 information or records submitted pursuant to this section.

24 3. Investigation of a minor's child abuse, physical injury, neglect  
25 or abuse conducted by a peace officer or the department of child safety.

26 L. In any civil or criminal litigation in which a child's neglect,  
27 dependency, physical injury, abuse, child abuse or abandonment is an  
28 issue, a member of the clergy, a christian science practitioner or a  
29 priest shall not, without his consent, be examined as a witness concerning  
30 any confession made to him in his role as a member of the clergy, a  
31 christian science practitioner or a priest in the course of the discipline  
32 enjoined by the church to which he belongs. This subsection does not  
33 discharge a member of the clergy, a christian science practitioner or a  
34 priest from the duty to report pursuant to subsection A of this section.

35 M. If psychiatric records are requested pursuant to subsection G of  
36 this section, the custodian of the records shall notify the attending  
37 psychiatrist, who may excise from the records, before they are made  
38 available:

39 1. Personal information about individuals other than the patient.

40 2. Information regarding specific diagnosis or treatment of a  
41 psychiatric condition, if the attending psychiatrist certifies in writing  
42 that release of the information would be detrimental to the patient's  
43 health or treatment.

1 N. If any portion of a psychiatric record is excised pursuant to  
2 subsection M of this section, a court, on application of a peace officer,  
3 child welfare investigator or child safety worker, may order that the  
4 entire record or any portion of the record that contains information  
5 relevant to the reported abuse, child abuse, physical injury or neglect be  
6 made available to the peace officer, child welfare investigator or child  
7 safety worker investigating the abuse, child abuse, physical injury or  
8 neglect.

9 O. A person who violates this section is guilty of a class 1  
10 misdemeanor, except if the failure to report involves a reportable  
11 offense, the person is guilty of a class 6 felony.

12 P. For the purposes of this section:

13 1. "Abuse" has the same meaning prescribed in section 8-201.

14 2. "Child abuse" means child abuse pursuant to section 13-3623.

15 3. "Neglect" has the same meaning prescribed in section 8-201.

16 4. "Reportable offense" means any of the following:

17 (a) Any offense listed in chapters 14 and 35.1 of this title or  
18 section 13-3506.01.

19 (b) Surreptitious photographing, videotaping, filming or digitally  
20 recording or viewing a minor pursuant to section 13-3019.

21 (c) Child prostitution pursuant to section 13-3212.

22 (d) Incest pursuant to section 13-3608.

23 (e) Unlawful mutilation pursuant to section 13-1214.

**APPROVED BY THE GOVERNOR MARCH 24, 2017.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2017.**

Passed the House February 22, 20 17

Passed the Senate March 22, 20 17

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House  
 Pro Tempore

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this  
23<sup>rd</sup> day of March, 20 17

at 3:31 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 24<sup>th</sup> day of

March, 2017

at 3:07 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State  
this 24 day of March, 20 17

at 5:05 o'clock P. M.

[Signature]  
Secretary of State

H.B. 2444