



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
First Regular Session

Senate: HHS DP 7-0-1-0 | 3<sup>rd</sup> Read 28-0-2-0

House: HHS DP 7-1-1-0 | 3<sup>rd</sup> Read 59-0-1-0

Final Vote: 29-0-1-0

## **SB 1417: health care directives; contact orders**

**Sponsor: Senator Barto, LD 15**

**Transmitted to the Governor**

### **Overview**

Establishes requirements regarding the contact of a principal of a health care directive.

### **History**

An *agent* is an adult who has the authority to make health care treatment decisions for another person [the *principal*] pursuant to a health care power of attorney. A *health care directive* is a document drafted in compliance with statutory requirements to deal with a person's future health care decisions ([A.R.S. § 36-3201](#)).

An adult can designate another adult to make health care decisions on that person's behalf or to provide funeral and disposition arrangements in the event of the person's death by executing a written health care power of attorney that: 1) contains language that clearly indicates that the person intends to create a health care power of attorney; 2) is dated and signed or marked by the principal; and 3) is notarized and witnessed in writing by an adult affirming the notary or witness was present ([A.R.S. § 36-3221](#)).

### **Provisions**

#### ***Agents***

1. States that an agent, unless inconsistent with a health care directive:
  - a) Must encourage and allow contact between the principal and other persons who have a significant relationship with the principal; and
  - b) Must not limit, restrict or prohibit reasonable contact between the principal and any other person without prior court approval. (Sec. 1)
2. Allows an agent, who does not have express authority granted in a healthcare directive to restrict contact between the principal and another person, to petition the court for an order restricting the contact if the agent reasonably believes the contact is not in the principal's best interest. (Sec. 1)
3. Specifies that if the agent's requested order prohibits all contact, the agent must file a written statement from a healthcare worker who has recently evaluated the principal and supports the agent's position with the court. (Sec. 1)
4. Outlines what must be included in the petitions and to whom the petition and notice of hearing must be sent. (Sec. 1)

#### ***Principals and Persons with a Significant Relationship with the Principal***

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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5. Permits a person, who has a significant relationship with the principal and whose contact with the principal has been restricted by an agent, to petition the court for an order compelling the agent to allow the person to have contact with the principal. (Sec. 1)
6. Permits the principal, whose contact with a person who has a significant relationship with the principal has been restricted by an agent, to petition the court for an order compelling the agent to allow the principal to have contact with the person. (Sec. 1)
7. Provides that the petitioner has the burden to prove that the requested contact is in the principal's best interest. (Sec. 1)
8. Outlines what the petitions must describe and to whom the petition and notice of the hearing must be served. (Sec. 1)

#### ***Court Determination***

9. Directs the court to consider all factors relevant to the principal's health, safety and welfare in determining allowable contact, if any. (Sec. 1)
10. Requires the court to appoint an attorney, guardian ad litem or both for the principal. (Sec. 1)
11. States the court may:
  - a) Appoint an investigator, physician or both to evaluate the principal and submit a report to the court;
  - b) Enter any other temporary order the court determines necessary to protect the principal; or
  - c) Issue a temporary protective order restricting contact between the principal and another person without notice. (Sec. 1)
12. Outlines procedures that allow for the issuance of a temporary protective order by the court. (Sec. 1)

#### ***Modifying a Contact Order***

13. Allows a principal, agent or person with a significant relationship with the principal to petition the court to modify a contact order if there has been a material change in circumstances affecting the principal's welfare since the last contact order was entered. (Sec. 2)
14. Requires the petition to be supported by an affidavit alleging the change of circumstances. (Sec. 1)
15. Stipulates the court must deny the petition unless it finds the petition establishes good cause for a hearing, in which case the court must set a hearing on the petition. (Sec. 1)
16. Outlines who must receive the petition and notice of the hearing on the petition. (Sec. 1)

#### ***Temporarily Modifying or Suspending a Contact Order***

17. Allows a principal, agent or person who has a significant relationship with the principal to file a motion asking the court to temporarily modify or suspend a contact order if a material change in circumstances affecting the principal's welfare has occurred since the last contact order was entered. (Sec. 1)
18. Requires the motion to be supported by an affidavit alleging the change of circumstances. (Sec. 1)
19. States the motion must be filed at the same time as or after the filing of a petition to modify the prior contact order. (Sec. 1)
20. Requires the motion to state whether the petitioner would like the prior contact order to be modified or suspended with or without notice to the affected persons. (Sec. 1)

21. Allows a court to temporarily modify or suspend a contact order without notice, provided that specified requirements are met. (Sec. 1)
22. Directs the court to set a hearing if a motion to temporarily suspend or modify a contact order without notice is granted. (Sec. 1)
23. Outlines what an order that is temporarily modifying or suspending a contact order without notice must contain and when the order expires. (Sec. 1)
24. Establishes procedures and time frames for the moving party to serve copies of the order. (Sec. 1)

***Miscellaneous***

25. Requires the petitioner to provide at least 14 days' notice of the time and place of a hearing (Sec. 1)
26. Requires a petition to be heard and determined as a formal proceeding and governed by the rules of probate procedure. (Sec. 1)
27. Allows, on notice and upon a hearing, the court to enter orders safeguarding the principal's wishes, if the wishes can be reasonably ascertained. (Sec. 1)
28. Permits the court to assess certain costs and fees on a party found to have proceeded in bad faith or to have acted unreasonably. (Sec. 1)
29. Allows the court to order alternative dispute resolution in a proceeding. (Sec. 1)
30. Defines *abuse*, *child abuse*, *contact*, *court*, *exploitation* and *neglect*. (Sec. 1)