

2020 FEB 19 PM 3:35

FILED

NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES AND INFESTATIONS
ARTICLE 8. ASSAULTS ON PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS

PREAMBLE

- 1. Article, Part, of Section Affected (as applicable) Rulemaking Action**

Article 8	Amend
R9-6-801	Amend

- 2. Citations to the agency’s statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing Statutes: A.R.S. §§ 36-136(A)(7) and 36-136(G)
 Implementing Statutes: A.R.S. §§ 13-1210 and 36-136(I)(1), and Laws 2019, Ch. 97

- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rulemaking:**

Notice of Docket Opening: 26 A.A.R. 291, February 14, 2020

- 4. The agency’s contact person who can answer questions about the rulemaking:**

Name:	Ken Komatsu, State Epidemiologist
Address:	Arizona Department of Health Services Public Health Preparedness 150 N. 18th Ave., Suite 100 Phoenix, AZ 85007-3248
Telephone:	(602) 364-3909
Fax:	(602) 364-3199
E-mail:	Ken.Komatsu@azdhs.gov
or	
Name:	Stephanie Elzenga, Acting Chief
Address:	Arizona Department of Health Services Office of Administrative Counsel and Rules 150 N. 18th Ave., Suite 200 Phoenix, AZ 85007
Telephone:	(602) 542-1020

Fax: (602) 364-1150

E-mail: Stephanie.Elzenga@azdhs.gov

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:

Arizona Revised Statutes (A.R.S.) § 36-136(H)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing “reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases.”

A.R.S. § 13-1210 authorizes specific individuals and their employing entities to petition for court-ordered testing of the blood of the alleged perpetrator of an assault on the individual. The Department has adopted in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6, Article 8, rules to implement these statutes. Laws 2019, Ch. 97, amends A.R.S. § 13-1210 by adding hospital employees to those who may “petition the court for an order authorizing testing of another person for the human immunodeficiency virus, common blood borne diseases or other diseases specified in the petition.” After receiving an exception from the Governor’s rulemaking moratorium established by Executive Order 2019-01, the Department is revising the rule by expedited rulemaking to make this change to comply with the requirements in A.R.S § 13-1210. The proposed amendments will conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study for this rulemaking.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Not applicable

10. Where, when, and how persons may provide written comment to the agency on the

proposed expedited rule under A.R.S. § 41-1027(C):

Close of record: March 23, 2020 at 10:00 a.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require the issuance of a regulatory permit. Therefore, a general permit is not applicable.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal laws do not apply to the rule.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No such analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rule follows:

TITLE 9. HEALTH SERVICES
CHAPTER 6. DEPARTMENT OF HEALTH SERVICES
COMMUNICABLE DISEASES AND INFESTATIONS
ARTICLE 8. ASSAULTS ON HOSPITAL EMPLOYEES, PUBLIC SAFETY EMPLOYEES AND
VOLUNTEERS, OR STATE HOSPITAL EMPLOYEES

Section

R9-6-801. Definitions

ARTICLE 8. ASSAULTS ON HOSPITAL EMPLOYEES, PUBLIC SAFETY EMPLOYEES AND VOLUNTEERS, OR STATE HOSPITAL EMPLOYEES

R9-6-801. Definitions

In addition to the definitions in A.R.S. § 13-1210 and R9-6-101, the following definitions apply in this Article unless otherwise specified:

1. “Employer” means an individual in the senior leadership position with an agency or entity for which a named employee or volunteer works or that individual’s designee.
2. “Named employee or volunteer” means one of the following who is listed as the assaulted individual in a petition, filed under A.R.S. § 13-1210 and granted by a court:
 - a. Hospital employee,
 - a.b. Public safety employee or volunteer, or
 - b.c. Arizona State Hospital employee.
3. “Occupational health provider” means a physician, physician assistant, registered nurse practitioner, or registered nurse, as defined in A.R.S. § 32-1601, who provides medical services for work-related health conditions for an agency or entity for which a named employee or volunteer works.