

SB 140: Adult Protective Services Administrative Subpoenas

Division of Aging and Adult Services/Adult Protective Services (DAAS/APS) is the state agency tasked with investigating and resolving reports of abuse, neglect, and exploitation of seniors and vulnerable adults. (UCA § 62a-3-302)

Overview

Adult Protective Services (APS) is tasked with resolving protective needs for seniors and vulnerable adults. These efforts are often limited by the difficulty or inability of APS to access records and information related to a potential victim's protective need.

Under current powers and duties (UCA § 62a-3-303), APS is granted access to, or provided with written statements, documents, exhibits and other items related to an investigation, including medical or financial records of the vulnerable adult who is the subject of the record. In the event that a potential victim lacks capacity, APS can use an administrative subpoena to access records.

Improved client outcomes

The purpose of this legislation is to broaden the use of administrative subpoenas to achieve positive resolution of client cases when the following circumstances apply:

- The vulnerable adult has limited capacity to consent to allow access to records to further the investigation, or
- The vulnerable adult's legal guardian refuses to provide needed records, or
- The custodian of the records or items pertinent to an investigation refuses to allow access to those records or items without a subpoena, and
- The information sought is necessary to investigate allegations of abuse, neglect, or exploitation, or to protect the alleged victim.



APS cases vs subpoenas issued

Currently, APS can only issue an administrative subpoena to access records when the alleged victim fully lacks capacity. Historically, administrative subpoenas are rarely used.

Administrative subpoenas issued as a percentage of total investigations by state Fiscal Year

FY 2020	.1%
FY 2021	.5%
FY 2022	.9%
FY 2023	.3%

- Mostly used in financial exploitation and neglect cases.
- Financial and medical records are the most commonly requested documents.
- Can only be issued by the APS director or designee.