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FILED

Jane Dee Hull
Secretary of State

CHAPTER 287

SENATE BILL 1266

AN ACT

REPEALING SECTION 36-216, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-545.01, 36-3403, 36-3404, 36-3405 AND 36-3410, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-545.08 AND 36-545.09; REPEALING LAWS 1995, FIRST SPECIAL SESSION, CHAPTER 5, SECTION 17; MAKING AN APPROPRIATION; PROVIDING FOR A DELAYED REPEAL; RELATING TO BEHAVIORAL HEALTH.

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

Section 1. Repeal

Section 36-216, Arizona Revised Statutes, is repealed.

Sec. 2. Section 36-545.01, Arizona Revised Statutes, is amended to read:

36-545.01. Payment of costs and expenses; ability to pay; power and duty of court; acceptance of other benefits; per capita cost limitation; guardians; parental liability; lien; duty of county attorney

A. When a patient is admitted to the state hospital for court-ordered treatment pursuant to article 5 of this chapter or pursuant to section 13-3994, the business manager of the state hospital shall inquire into the ability of the patient to pay the costs of examination, maintenance and treatment. The business manager shall file with the clerk of the court a written report of ~~his~~ THE MANAGER'S findings and the basis ~~therefor~~ OF THOSE FINDINGS.

B. If the patient is able to pay all or any portion of the charges, the court shall order the payment of ~~such~~ THE amount ~~as~~ the patient can afford of the per capita cost for examination, treatment and maintenance as estimated by the deputy director. The court may, upon petition of an interested person, and at a hearing of which all concerned parties have

1 received notice, increase or decrease the maintenance charge payable by the
2 patient or ~~his~~ the PATIENT'S estate.

3 C. Notwithstanding ~~any provision of~~ subsection B OF THIS SECTION, any
4 federal, state, public or private medical benefits which are payable to the
5 state hospital where the patient is receiving care and treatment or WHICH ARE
6 payable to the patient may be accepted by the state hospital without a court
7 order, except that the state hospital shall not accept any such benefits
8 which alone or in addition to any amounts payable pursuant to subsection B
9 OF THIS SECTION exceed the per capita cost for the patient.

10 D. The court may, if necessary, appoint a conservator of the patient
11 to carry out ~~the provisions of~~ this section. If a conservator is appointed,
12 the clerk of the court shall file a certificate so stating. All proceedings
13 relating to such conservatorship shall be had as provided by law for
14 conservators of estates. The conservator shall pay the amount ordered by the
15 court ~~as in~~ PURSUANT TO subsection B OF THIS SECTION.

16 E. If the patient is a minor, the business manager of the state
17 hospital shall inquire into the ability of the MINOR'S parents ~~of such minor~~
18 to bear charges pursuant to this section. All obligations, charges and liens
19 that may be imposed on a patient pursuant to this section shall be imposed
20 on the MINOR'S parents ~~of such minor patient~~ if it is determined that the
21 parents have the ability to pay.

22 F. The charges fixed by the court as provided by this section and
23 ordered paid by the patient or ~~his~~ THE PATIENT'S estate shall, upon filing
24 with the county recorder, become a lien upon property of the patient or ~~his~~
25 THE PATIENT'S estate.

26 G. The county attorney of each county shall, upon AN order of a judge
27 of the superior court, enforce the lien and collect the charges from the
28 person ordered to pay if the charges become delinquent.

29 H. ~~No~~ Costs of examination, treatment and maintenance shall NOT be
30 charged to any patient found by a ~~competent~~ court of COMPETENT jurisdiction
31 to be unlawfully detained.

32 I. NOTWITHSTANDING SECTION 36-545.02, THE DEPARTMENT SHALL TRANSMIT
33 MONIES COLLECTED THROUGH CONTRACTS ENTERED INTO PURSUANT TO SECTION 36-3410
34 TO THE STATE TREASURER FOR DEPOSIT IN THE ARIZONA STATE HOSPITAL FUND
35 ESTABLISHED BY SECTION 36-545.08. THE DEPARTMENT SHALL USE THESE MONIES FOR
36 THE TREATMENT OF PATIENTS AT THE STATE HOSPITAL OR FOR THE PLACEMENT OF
37 CLIENTS IN THE COMMUNITY.

38 Sec. 3. Title 36, chapter 5, article 6, Arizona Revised Statutes, is
39 amended by adding sections 36-545.08 and 36-545.09, to read:

40 36-545.08. Arizona state hospital fund: purpose

41 A. THE ARIZONA STATE HOSPITAL FUND IS ESTABLISHED FOR THE PURPOSES
42 PRESCRIBED IN SECTION 36-545.01, SUBSECTION I. THE DEPARTMENT OF HEALTH
43 SERVICES SHALL ADMINISTER THE FUND. THE FUND CONSISTS OF THE FOLLOWING:

1 1. BEGINNING IN FISCAL YEAR 1997-1998, MONIES APPROPRIATED BY THE
2 LEGISLATURE AND MATCHING FEDERAL MONIES PAID TO THE DEPARTMENT FOR
3 DISPROPORTIONATE SHARE PAYMENTS TO THE STATE HOSPITAL.

4 2. BEGINNING IN FISCAL YEAR 1997-1998, MONIES REIMBURSED BY THE
5 FEDERAL GOVERNMENT UNDER TITLE XIX OF THE SOCIAL SECURITY ACT FOR SERVICES
6 PROVIDED AT THE STATE HOSPITAL.

7 3. MONIES COLLECTED PURSUANT TO SECTION 36-3410 FOR SERVICES TO
8 CLIENTS AT THE STATE HOSPITAL.

9 B. THE DEPARTMENT SHALL DEPOSIT MONIES COLLECTED PURSUANT TO
10 SUBSECTION A OF THIS SECTION INTO THREE SEPARATE ACCOUNTS.

11 C. MONIES IN THE FUND DEPOSITED UNDER SUBSECTION A, PARAGRAPHS 1, 2
12 AND 3 OF THIS SECTION ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND ARE
13 DESIGNATED FOR STATE HOSPITAL OPERATIONS. MONIES IN THE FUND DEPOSITED UNDER
14 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION ARE A CONTINUING APPROPRIATION AND
15 ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
16 APPROPRIATIONS.

17 36-545.09. Building renewal fund; purpose

18 SUBJECT TO LEGISLATIVE APPROVAL A BUILDING RENEWAL FUND IS ESTABLISHED
19 FOR THE PURPOSE OF MAJOR MAINTENANCE OF THE STATE OWNED PROPERTIES LOCATED
20 AT 1930 EAST 6TH STREET AND 2075 NORTH 6TH AVENUE, TUCSON, ARIZONA. THE
21 BUILDING RENEWAL FUND SHALL BE SUBJECT TO LEGISLATIVE APPROPRIATION. THE
22 FUND SHALL CONSIST OF MONIES COLLECTED FROM THE LEASE OF THESE PROPERTIES.
23 THE DEPARTMENT OF HEALTH SERVICES SHALL ADMINISTER THE FUND. FUND MONIES ARE
24 EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
25 APPROPRIATIONS.

26 Sec. 4. Section 36-3403, Arizona Revised Statutes, is amended to read:

27 36-3403. Powers and duties of the deputy director

28 A. The deputy director may, on approval of the director:

29 1. Employ professional, secretarial and clerical staff as are
30 determined necessary by the director to carry out the functions and duties
31 of the division, subject to legislative appropriation.

32 2. Contract for the services of consultants and other persons which
33 are reasonably necessary to enable the division to carry out its functions
34 and duties, subject to legislative appropriation.

35 3. Contract and incur obligations which are reasonably necessary
36 within the general scope of the division.

37 4. Adopt rules which are necessary to carry out the requirements of
38 the division.

39 5. Contract or enter into intergovernmental agreements with other
40 public and private nonprofit agencies and entities.

41 6. Use monies, facilities or services to provide matching
42 contributions under federal or other programs which further the objectives
43 and programs of the division.

1 7. Accept gifts, grants, matching monies or direct payments from
2 public or private agencies or private persons and enterprises for the conduct
3 of programs which are consistent with the general purposes and objectives of
4 the division.

5 8. LEASE AT FAIR MARKET VALUE REAL PROPERTY CURRENTLY OCCUPIED BY THE
6 SOUTHERN ARIZONA MENTAL HEALTH CENTER FOR THE PURPOSES OF OPERATING A PRIVATE
7 NONPROFIT BEHAVIORAL HEALTH CARE FACILITY. MONIES COLLECTED FROM THE LEASE
8 OF THE REAL PROPERTY SHALL BE DEPOSITED INTO THE BUILDING RENEWAL FUND
9 ESTABLISHED PURSUANT TO SECTION 36-545.09.

10 B. The deputy director shall administer:

11 1. Unified mental health programs, to include the functions of the
12 state hospital and community mental health.

13 2. Addictive behavior programs to include alcohol and drug abuse.

14 C. Notwithstanding any other law the deputy director may waive or
15 reduce the requirements for local match.

16 D. The superintendent of the Arizona state hospital ~~and the~~
17 ~~administrator of the southern Arizona mental health center~~ shall be appointed
18 by the deputy director, subject to the approval of the director, and shall
19 report directly to the deputy director.

20 Sec. 5. Section 36-3404, Arizona Revised Statutes, is amended to read:

21 36-3404. Department budget for the division of behavioral
22 health; funds

23 A. The department budget for the division shall include all
24 information on potential availability of other monies, including federal
25 monies, which may be used in the following fiscal year to fund the behavioral
26 health services of the Arizona state hospital ~~and southern Arizona mental~~
27 ~~health center.~~

28 B. The budget request presented pursuant to subsection A of this
29 section shall be divided as follows:

30 1. A proposed budget for the administration of the division.

31 2. A proposed budget for the Arizona state hospital, with a specific
32 amount of the total budget estimated to be used for patients who are
33 seriously mentally ill.

34 ~~3. A proposed budget for the southern Arizona mental health center~~
35 ~~with the specific amount of the total budget to be used for clients who are~~
36 ~~seriously mentally ill.~~

37 ~~4.~~ 3. A proposed budget for services for each behavioral health
38 program.

39 C. The deputy director shall establish funds for each behavioral
40 health program. Monies appropriated to the division for these programs, and
41 grants, gifts and fees generated by the division, shall be maintained in the
42 appropriate fund to pay program and administrative costs. The administrative
43 costs of each program shall be separately identified in the accounting
44 records of the division.

1 Sec. 6. Section 36-3405, Arizona Revised Statutes, is amended to read:
2 36-3405. Division annual report; monthly report

3 A. By January 1 of each year, the director shall submit a financial
4 and programmatic report for the preceding fiscal year to the governor, the
5 speaker of the house of representatives and the president of the senate.

6 B. The report required pursuant to subsection A shall include revenues
7 and expenditures for the division and total revenues and expenditures
8 including specific identification of administrative costs for each behavioral
9 health program by the following categories:

- 10 1. The seriously mentally ill.
- 11 2. Alcohol and drug abuse.
- 12 3. Severely emotionally handicapped children.
- 13 4. Domestic violence.
- 14 5. The Arizona state hospital.
- 15 ~~6. The southern Arizona mental health center.~~

16 C. The report required pursuant to subsection A shall include the
17 number of clients served by each behavioral health service.

18 D. The director shall provide a monthly report to the governor, the
19 speaker of the house of representatives and the president of the senate which
20 shall, by regional behavioral health authority, separately report title XIX
21 and nontitle XIX categories and shall include for each category the number
22 of persons served, the units of service and the amount of funding provided
23 for client services and the amount provided for regional behavioral health
24 authority administration and case management expenses.

25 Sec. 7. Section 36-3410, Arizona Revised Statutes, is amended to read:
26 36-3410. Regional behavioral health authorities; contracts;
27 monthly summaries; inspection; copying fee

28 A. If the department contracts with behavioral health contractors
29 which would act as regional behavioral health authorities or directly with
30 a service provider for behavioral health services, the department and each
31 behavioral health contractor or service provider shall prepare and make
32 available monthly summary statements, in a format prescribed by the
33 department, that separately detail by title XIX and nontitle XIX and by
34 service category and service type, as defined by contract with the
35 department, the number of clients served, the units of service provided and
36 the state and federal monies distributed through the department to each
37 regional behavioral health authority or direct contract service provider and
38 the amounts distributed by each regional behavioral health authority or
39 direct contract service provider to their subcontractors. The director, ~~at~~
40 ~~his discretion,~~ may require additional information in the monthly statement
41 which the director determines to be critical for proper regulation and
42 oversight of the regional behavioral health authority or the direct contract
43 service provider.

1 B. IN THE CONTRACTS SPECIFIED UNDER SUBSECTION A OF THIS SECTION, THE
2 DEPARTMENT MAY INCLUDE A PROVISION TO CHARGE FOR SERVICES PROVIDED AT THE
3 STATE HOSPITAL. THE CHARGES ARE ONLY FOR CLIENTS ON WHOSE BEHALF THE
4 CONTRACTOR HAS BEEN PAID BY THE DEPARTMENT.

5 ~~B-~~ C. The summaries and the contracts on which they are based are
6 open to public inspection. The department and each regional behavioral
7 health authority or direct contract service provider shall make the summaries
8 available for inspection and copying at the office of each regional
9 behavioral health authority or direct contract service provider and at the
10 department.

11 ~~C-~~ D. The department and a regional behavioral health authority or
12 direct contract service provider shall charge a copying fee which is not in
13 excess of the actual cost of reproduction or the amount charged by the
14 secretary of state pursuant to section 41-126, whichever is less.

15 ~~D-~~ E. Copying fees received by the department, pursuant to subsection
16 ~~C-~~ D of this section, shall be placed in the state general fund.

17 Sec. 8. Delayed repeal

18 Laws 1995, first special session, chapter 5, section 17 is repealed
19 from and after July 1, 1997.

20 Sec. 9. Legislative intent

21 It is the intent of the legislature that resources formerly used by the
22 southern Arizona mental health center, shall continue to be used to serve the
23 geographical area previously served by the center.

24 Sec. 10. Appropriation; purpose

25 Notwithstanding any law to the contrary, any monies in the southern
26 Arizona mental health center financial accounts at the end of fiscal year
27 1995-1996 received from third party payors, are appropriated to the division
28 of behavioral health in the department of health services for distribution
29 to a regional behavioral health authority as defined in section 36-3401,
30 Arizona Revised Statutes, in a county with a population of more than five
31 hundred thousand persons but less than nine hundred thousand persons
32 according to the most recent United States decennial census for the public
33 purpose of contracting with a service provider as defined in section 36-3401,
34 Arizona Revised Statutes.

35 Sec. 11. Authority of director; contracts; incurring obligations

36 For state fiscal year 1996-1997, the deputy director may, on approval
37 of the director, contract for and incur obligations which are reasonably
38 necessary to carry out the privatization of the southern Arizona mental
39 health center.

APPROVED BY THE GOVERNOR APRIL 29, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 1996