

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 71

HOUSE BILL 2246

AN ACT

AMENDING SECTION 8-271, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 8-272, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 8, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, AS SECTION 8-242; RENUMBERING SECTIONS 8-273 AND 8-274, ARIZONA REVISED STATUTES, RESPECTIVELY, AS SECTIONS 8-272 AND 8-273; AMENDING SECTIONS 8-272 AND 8-273, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING TITLE 8, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-341.01; AMENDING SECTIONS 36-518, 36-560 AND 36-562, ARIZONA REVISED STATUTES; RELATING TO CHILDREN'S MENTAL HEALTH.

(TEXT OF BILL BEGINS ON NEXT PAGE)



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

2 Section 1. Section 8-271, Arizona Revised Statutes, is amended to
3 read:

4 8-271. Definitions

5 In this article, unless the context otherwise requires:

6 ~~1. "Detoxification services" means treatment services that are~~
7 ~~provided to reduce physical dependence on alcohol, drugs or other substances~~
8 ~~through the use of therapeutic procedures, including medications, rest, diet,~~
9 ~~counseling or medical supervision.~~

10 ~~2. 1. "Dually adjudicated child" means a child who is found to be~~
11 ~~dependent or temporarily subject to court jurisdiction pending an~~
12 ~~adjudication of a dependency petition and who is alleged or found to have~~
13 ~~committed a delinquent or incorrigible act.~~

14 ~~3. 2. "Entity" means the department of economic security, THE~~
15 ~~department of juvenile corrections or a child welfare agency that has been~~
16 ~~granted legal care, custody and control of a child by order of the juvenile~~
17 ~~court and that is responsible for securing inpatient psychiatric acute care~~
18 ~~services or residential treatment services for a child. Entity includes a~~
19 ~~probation department or juvenile detention center that either recommends or~~
20 ~~is ordered by the court to provide inpatient psychiatric acute care services~~
21 ~~or residential treatment services for a child.~~

22 ~~4. 3. "Inpatient assessment" includes all of the following:~~

23 ~~(a) The observation of a child's behavior while the child is in an~~
24 ~~inpatient assessment facility.~~

25 ~~(b) Psychological or psychiatric testing, if indicated.~~

26 ~~(c) A determination as to whether a child needs inpatient psychiatric~~
27 ~~acute care services and whether inpatient psychiatric acute care services are~~
28 ~~the least restrictive available alternative.~~

29 ~~(d) The administration of psychotropic medication and medication~~
30 ~~monitoring, if necessary to complete the assessment or to prevent the child~~
31 ~~from being a danger to self or others.~~

32 ~~(e) A written report that summarizes the results of an inpatient~~
33 ~~assessment, including specific recommendations for follow-up care.~~

34 ~~(f) A psychiatric or psychological assessment, including a clinical~~
35 ~~interview with a child.~~

36 ~~(g) An explanation to a child of the least restrictive alternatives~~
37 ~~available to meet the child's mental health needs.~~

38 ~~(h) A determination as to whether the child may be suffering from a~~
39 ~~mental disorder, is a danger to self or others or is persistently or acutely~~
40 ~~disabled or gravely disabled, as defined in section 36-501.~~

41 ~~(i) A review of a child's medical, social and psychological records,~~
42 ~~if available.~~

43 ~~5. "Intensive treatment program" means treatment services that are~~
44 ~~outlined in a child's individual treatment plan and that provide planned,~~
45 ~~structured and coordinated therapeutic goals.~~

1 ~~6.~~ 4. "Level one behavioral health facility" means a behavioral
2 health service agency that is licensed by the department of health services
3 and that provides a structured treatment setting with twenty-four hour a day
4 supervision and an intensive treatment program.

5 ~~7.~~ 5. "Outpatient assessment" includes all of the following:

6 (a) A psychiatric or psychological assessment, including a clinical
7 interview with a child.

8 (b) An explanation to a child of the least restrictive alternatives
9 available to meet the child's mental health needs IF DETERMINED AT THE TIME
10 OF THE ASSESSMENT.

11 (c) A determination as to whether the child may be suffering from a
12 mental disorder, is a danger to self or others or is persistently or acutely
13 disabled or gravely disabled.

14 (d) A review of a child's medical, social and psychological records,
15 if available.

16 (e) A determination as to whether the child needs an inpatient
17 assessment or inpatient psychiatric acute care services and whether an
18 inpatient assessment or inpatient psychiatric acute care services are the
19 least restrictive available alternative.

20 ~~8.~~ 6. "Physician" means a person who is licensed pursuant to title
21 32, chapter 13 or 17.

22 ~~9.~~ 7. "Psychiatric acute care facility" or "inpatient assessment
23 facility" means a facility that is licensed by the department of health
24 services as a level one behavioral health facility and that provides
25 psychiatric acute care services.

26 ~~10.~~ 8. "Psychiatric acute care services" means any of the following:

27 (a) Emergency or crisis behavioral health services.

28 (b) Psychiatric and psychological assessments and short-term intensive
29 behavioral health counseling and treatment for acute episodes or mental
30 disorders.

31 (c) Medication stabilization and twenty-four hour a day nursing care
32 for a child who suffers from acute psychiatric or mental disorders or who
33 needs to have a chronic mental illness stabilized.

34 ~~11.~~ 9. "Psychiatrist" means a person who is licensed pursuant to title
35 32, chapter 13 or 17.

36 ~~12.~~ 10. "Psychologist" means a person who is licensed pursuant to
37 title 32, chapter 19.1.

38 ~~13.~~ 11. "Residential treatment services" means services, OTHER THAN
39 PSYCHIATRIC ACUTE CARE SERVICES, that are provided by a level one behavioral
40 health facility, ~~a program that provides detoxification services or an~~
41 ~~intensive treatment program.~~

42 Sec. 2. Transfer and renumber

43 Section 8-272, Arizona Revised Statutes, is transferred and renumbered
44 for placement in title 8, chapter 2, article 4, Arizona Revised Statutes, as
45 section 8-242.

1 Sec. 3. Section 8-273, Arizona Revised Statutes, is renumbered as
2 section 8-272 and, as so renumbered, is amended to read:

3 8-272. Psychiatric acute care services; outpatient and
4 inpatient assessments; definition

5 A. If a child exhibits behavior that indicates the child may suffer
6 from a mental disorder or is a danger to self or others, an entity may
7 request that the child receive an outpatient assessment or inpatient
8 assessment.

9 B. A psychologist, psychiatrist or physician shall conduct an
10 outpatient assessment at a time and place that is convenient for the
11 psychologist, psychiatrist or physician and the child. At the conclusion of
12 the outpatient assessment, the psychologist, psychiatrist or physician shall
13 recommend that the child be either:

- 14 1. Provided with outpatient treatment services.
- 15 2. Admitted to a psychiatric acute care facility for inpatient
16 assessment or inpatient psychiatric acute care services.
- 17 3. Provided with residential treatment services.
- 18 4. Discharged to the entity without further psychological or
19 psychiatric services because the child does not suffer from a mental
20 disorder, is not a danger to self or others or is not persistently or acutely
21 disabled or gravely disabled.

22 C. A psychologist, psychiatrist or physician shall conduct an
23 inpatient assessment within seventy-two hours after a child is admitted to
24 an inpatient assessment facility, excluding weekends and holidays. At the
25 conclusion of the inpatient assessment, the psychologist, psychiatrist or
26 physician shall recommend that the child be either:

- 27 1. Admitted to a psychiatric acute care facility for inpatient
28 psychiatric acute care services.
- 29 2. Discharged to an entity and provided with outpatient treatment
30 services.
- 31 3. Provided with residential treatment services.
- 32 4. Discharged to the entity without further psychological or
33 psychiatric services because the child does not suffer from a mental
34 disorder, is not a danger to self or others or is not persistently or acutely
35 disabled or gravely disabled.

36 D. Within twenty-four hours after a child is admitted for an inpatient
37 assessment, excluding weekends and holidays, the entity shall file a motion
38 for approval of admission for inpatient assessment with the juvenile court.
39 The motion shall include all of the following:

- 40 1. The name and address of the inpatient assessment facility.
- 41 2. The name of the psychologist, psychiatrist or physician who is
42 likely to perform the inpatient assessment.
- 43 3. The date and time the child was admitted to the inpatient
44 assessment facility.

1 4. A short statement explaining why the child needs an inpatient
2 assessment.

3 E. An entity that files a motion under subsection D of this section
4 shall provide a copy of the motion to all of the parties and their attorneys.
5 The court shall rule on the motion without response from any party, except
6 that any party may request a hearing to review the child's admission for an
7 inpatient assessment. If the court grants a hearing, the court shall set the
8 hearing on an accelerated basis.

9 F. If the psychologist, psychiatrist or physician who performed the
10 outpatient assessment or inpatient assessment of the child recommends that
11 the child receive inpatient acute care psychiatric services, the entity may
12 file a motion for inpatient psychiatric acute care services with the juvenile
13 court. If the psychologist, psychiatrist or physician makes this
14 recommendation after conducting an inpatient assessment, the entity shall
15 file the motion for inpatient psychiatric acute care services within
16 twenty-four hours after the completion of the inpatient assessment, EXCLUDING
17 WEEKENDS AND HOLIDAYS. The motion shall include all of the following:

18 1. A copy of the written report of the results of the inpatient
19 assessment or outpatient assessment, including:

20 (a) The reason why inpatient psychiatric acute care services are in
21 the child's best interests.

22 (b) The reason why inpatient psychiatric acute care services are the
23 least restrictive available treatment.

24 (c) A diagnosis of the child's condition that requires inpatient
25 psychiatric acute care services.

26 (d) The estimated length of time that the child will require inpatient
27 psychiatric acute care services.

28 2. A written statement from the medical director of the proposed
29 inpatient psychiatric acute care facility or the medical director's designee
30 that the facility's services are appropriate to meet the child's mental
31 health needs.

32 G. ~~ON~~ AS SOON AS PRACTICABLE AFTER the filing of a motion under
33 subsection D or F of this section, the court shall appoint an attorney for
34 the child if an attorney has not been previously appointed. The court may
35 also appoint a guardian ad litem for the child.

36 H. If a motion for ~~inpatient acute care services~~ is filed pursuant to
37 subsection F of this section, the court shall hold a hearing on the motion
38 within seventy-two hours after the motion is filed, EXCLUDING WEEKENDS AND
39 HOLIDAYS. If the child has been admitted for an inpatient assessment, the
40 child may remain at the inpatient assessment facility until the court rules
41 on the motion.

42 I. If a child is admitted for an inpatient assessment and an entity
43 fails to file a motion for ~~inpatient acute care services~~ within ~~twenty-four~~
44 ~~hours after the completion of the inpatient assessment~~ PURSUANT TO AND WITHIN

1 THE TIME LIMIT PRESCRIBED IN SUBSECTION F OF THIS SECTION, the child shall
2 be discharged from the inpatient assessment facility.

3 J. If the court approves the admission of the child for inpatient
4 psychiatric acute care services, the court shall find by clear and convincing
5 evidence that both:

6 1. The child is suffering from a mental disorder or is a danger to
7 self or others and requires inpatient psychiatric acute care services.

8 2. Available alternatives to inpatient psychiatric acute care services
9 were considered, but that inpatient psychiatric acute care services are the
10 least restrictive available alternative.

11 K. The court shall review the child's continuing need for inpatient
12 psychiatric acute care services at least every sixty days after the date of
13 the treatment order. The inpatient psychiatric acute care facility shall
14 submit a progress report to the court ~~every fifty-five days~~ AT LEAST FIVE
15 DAYS BEFORE THE REVIEW and shall provide copies of the progress report to all
16 of the parties, including the child's attorney and guardian ad litem. On its
17 own motion or on the request MOTION of a party, the court may hold a hearing
18 on the child's continuing need for inpatient psychiatric acute care services.
19 If requested by the child, the court shall hold a hearing unless the court
20 has held a review hearing within sixty days before the child's request. If
21 requested by the child, the court may hold a hearing at any time for good
22 cause shown. The progress report shall make recommendations and shall
23 include AT LEAST the following:

24 1. The nature of the treatment provided, including any medications and
25 the child's current diagnosis.

26 2. The child's need for continued inpatient psychiatric acute care
27 services, including the estimated length of the services.

28 3. A projected discharge date.

29 4. The level of care required by the child and the potential placement
30 options that are available to the child on discharge.

31 5. A statement from the medical director of the inpatient psychiatric
32 acute care facility or the medical director's designee as to whether
33 inpatient psychiatric acute care services are necessary to meet the child's
34 mental health needs and whether the facility that is providing the inpatient
35 psychiatric acute care services to the child is the least restrictive
36 available alternative.

37 L. If a child is transferred from an inpatient psychiatric acute care
38 facility to another inpatient psychiatric acute care facility, no new
39 inpatient assessment or outpatient assessment is required. Unless the court
40 orders otherwise due to an emergency, An entity shall file a notice of
41 transfer with the juvenile court at least five days before the transfer of
42 the child. The notice shall include all of the following:

43 1. The name and address of the facility to which the child is being
44 transferred and the date of the transfer.

1 THE DEPARTMENT OF JUVENILE CORRECTIONS REQUIRES RESIDENTIAL TREATMENT
2 SERVICES.

3 R. Information and records that are obtained or created in the course
4 of any assessment, examination or treatment are subject to the
5 confidentiality requirements of section 36-509, except that information and
6 records may be provided to the department of juvenile corrections pursuant
7 to section 8-341.

8 ~~S. This section does not apply to a child who is sentenced as an adult
9 unless the child meets one of the criteria listed in subsection T, paragraphs
10 1 and 2 of this section.~~

11 ~~T. S. For the purposes of this section, "child" means a person who
12 is under eighteen years of age and who is either:~~

13 ~~1. Found to be dependent or temporarily subject to court jurisdiction
14 pending an adjudication of a dependency petition.~~

15 ~~2. In the temporary custody of child protective services pursuant to
16 section 8-821.~~

17 ~~3. Detained in a JUVENILE COURT detention facility or who is placed
18 in the physical custody of someone other than the child's natural or adoptive
19 parent at the direction of the court or child protective services.~~

20 ~~4. Committed to the department of juvenile corrections.~~

21 ~~5. Adjudicated delinquent or awaiting disposition on a delinquency
22 petition and who is in the custody of a parent or guardian.~~

23 Sec. 4. Section 8-274, Arizona Revised Statutes, is renumbered as
24 section 8-273 and, as so renumbered, is amended to read:

25 8-273. Residential treatment services; definition

26 A. IF A CHILD EXHIBITS BEHAVIOR THAT INDICATES THE CHILD MAY SUFFER
27 FROM A MENTAL DISORDER OR IF IT IS RECOMMENDED AS A RESULT OF AN OUTPATIENT
28 ASSESSMENT OR INPATIENT ASSESSMENT PURSUANT TO SECTION 8-272 THAT A CHILD
29 RECEIVE RESIDENTIAL TREATMENT SERVICES, an entity may request FILE A MOTION
30 REQUESTING that the juvenile court order a child to receive residential
31 treatment services. ~~The entity may make this request in conjunction with a
32 dispositional order pursuant to section 8-341 if the child is adjudicated
33 delinquent or incorrigible or is in violation of probation. IF THE MOTION
34 STATES THAT ALL PARTIES, INCLUDING COUNSEL FOR THE CHILD, HAVE BEEN CONTACTED
35 AND ARE IN AGREEMENT, THE COURT IS NOT REQUIRED TO SET A HEARING ON THE
36 MOTION.~~

37 ~~B. A request for residential treatment services shall be in writing
38 and shall include:~~

39 ~~1. A copy of the written report that recommends residential treatment
40 services.~~

41 ~~2. A written statement from the medical or clinical director of the
42 residential treatment service facility or the director's designee that the
43 facility's services are appropriate to meet the child's needs.~~

1 ~~3. A statement that the child's attorney and guardian ad litem, if~~
2 ~~any, have been contacted and whether the child's attorney and guardian ad~~
3 ~~litem agree or disagree with the request for residential treatment services.~~

4 B. A MOTION FOR RESIDENTIAL TREATMENT SERVICES SHALL BE SUPPORTED BY
5 A WRITTEN PSYCHOLOGICAL, PSYCHIATRIC OR MEDICAL ASSESSMENT RECOMMENDING
6 RESIDENTIAL TREATMENT SERVICES. THE COURT MAY WAIVE THE WRITTEN ASSESSMENT
7 ON A FINDING OF GOOD CAUSE. THE WRITTEN ASSESSMENT SHALL INCLUDE AT LEAST
8 THE FOLLOWING:

9 1. THE REASON WHY RESIDENTIAL TREATMENT SERVICES ARE IN THE CHILD'S
10 BEST INTERESTS.

11 2. THE REASON WHY RESIDENTIAL TREATMENT SERVICES ARE THE LEAST
12 RESTRICTIVE TREATMENT AVAILABLE.

13 3. THE REASON WHY THE CHILD'S BEHAVIORAL, PSYCHOLOGICAL, SOCIAL OR
14 MENTAL HEALTH NEEDS REQUIRE RESIDENTIAL TREATMENT SERVICES.

15 4. THE ESTIMATED LENGTH OF TIME THAT THE CHILD WILL REQUIRE
16 RESIDENTIAL TREATMENT SERVICES.

17 C. A request MOTION for residential treatment services shall be
18 supported by a written psychological, psychiatric or medical assessment
19 recommending residential treatment services. The court may waive the written
20 assessment if it finds on good cause shown that the assessment is not
21 necessary for it to find whether or not residential treatment services are
22 in the child's best interests. The written assessment shall include at least
23 the following:

24 ~~1. The reason why residential treatment services are in the child's~~
25 ~~best interests.~~

26 ~~2. The reason why residential treatment services are the least~~
27 ~~restrictive treatment available.~~

28 ~~3. The reason why the child's behavioral, psychological, social or~~
29 ~~mental health needs require residential treatment services.~~

30 ~~4. The estimated length of time that the child will require~~
31 ~~residential treatment services.~~ STATEMENT FROM THE MEDICAL OR CLINICAL
32 DIRECTOR OF THE RESIDENTIAL TREATMENT FACILITY OR THE DIRECTOR'S DESIGNEE
33 THAT THE FACILITY'S SERVICES ARE APPROPRIATE TO MEET THE CHILD'S NEEDS.

34 D. On receipt of the written request AS SOON AS PRACTICABLE AFTER AN
35 ENTITY FILES A MOTION under subsection A of this section, the court shall
36 appoint an attorney for the child if an attorney has not been previously
37 appointed. The court may also appoint a guardian ad litem for the child.

38 E. ~~Before a hearing on the request,~~ The child's attorney shall discuss
39 the treatment recommendations with the child. The child's attorney or
40 designee shall attend all court hearings related to the child's placement in
41 a residential treatment facility and shall be prepared to report to the court
42 on the child's position regarding any recommendations or requests related to
43 the provision of residential treatment services. The child may appear at any
44 hearing, unless the court finds by a preponderance of the evidence that

1 allowing the child to attend the hearing would not be in the child's best
2 interests.

3 F. If the court orders a child to receive residential treatment
4 services, the court shall find by clear and convincing evidence that both:

5 1. The child requires residential treatment services to address the
6 child's behavioral, psychological, social or mental health needs.

7 2. Available alternatives to residential treatment services were
8 considered, but that residential treatment services are the least restrictive
9 available alternative.

10 G. The court shall review the child's continuing need for residential
11 treatment services at least every sixty days from the date of the treatment
12 order. The residential treatment facility shall submit a progress report to
13 the court ~~every fifty-five days~~ AT LEAST FIVE DAYS BEFORE THE REVIEW and
14 shall provide copies of its report to all of the parties, including the
15 child's attorney and guardian ad litem. The progress report shall include
16 the recommendations of the child's treatment facility and shall include AT
17 LEAST THE FOLLOWING:

18 1. The nature of the treatment provided, including any medications and
19 the child's current diagnosis.

20 2. The child's need for continued residential treatment services,
21 including the estimated length of the services.

22 3. A projected discharge date.

23 4. The level of care required by the child and the potential placement
24 options that are available to the child on discharge.

25 5. A statement from the medical or clinical director of the
26 residential treatment services facility or the director's designee as to
27 whether residential treatment services are necessary to meet the child's
28 needs and whether the facility that is providing the residential treatment
29 services to the child is the least restrictive available alternative.

30 H. On its own motion or on the request MOTION of a party, the court
31 may schedule a hearing concerning the child's continuing need for residential
32 treatment services. If requested by the child, the court shall schedule a
33 hearing unless the court has held a review hearing within sixty days before
34 the child's request. If requested by the child, the court may hold a hearing
35 at any time for good cause shown.

36 ~~1. Within five days before a child is discharged, an entity shall file
37 a notice of discharge with the juvenile court. The notice shall include all
38 of the following:~~

39 ~~1. A statement of the child's current placement.~~

40 ~~2. A statement of the services that are being provided to the child
41 and the child's family.~~

42 ~~3. A copy of the discharge summary that is prepared by a mental health
43 professional.~~

44 ~~4. I. If the child is a dually adjudicated child, the entity that
45 requests an order for residential treatment services shall notify any other~~

1 entity of all notices, motions, hearings or other proceedings related to the
2 provision of residential treatment services. Any entity may attend and
3 participate in all hearings or other proceedings relating to the provision
4 of residential treatment services to a dually adjudicated child.

5 ~~K.~~ J. Information or records that are obtained or created pursuant
6 to any assessment, examination or treatment are subject to the
7 confidentiality requirements of section 36-509, except that information and
8 records may be provided to the department of juvenile corrections pursuant
9 to section 8-341.

10 ~~L.~~ K. This section does not apply to a child who is either:

11 1. Committed to the department of juvenile corrections. SECTION
12 41-2815 APPLIES if a child who is committed to the department of juvenile
13 corrections requires residential treatment services, ~~the residential~~
14 ~~treatment services shall be provided pursuant to section 41-2815.~~

15 ~~2. Sentenced as an adult unless the child meets one of the criteria~~
16 ~~listed in subsection M, paragraphs 1 and 2 of this section.~~

17 2. ADJUDICATED DELINQUENT OR INCORRIGIBLE AND WHO IS SUBJECT TO THE
18 JURISDICTION OF THE JUVENILE COURT. SECTION 8-341.01 APPLIES IF A CHILD WHO
19 IS ADJUDICATED DELINQUENT OR INCORRIGIBLE AND WHO IS SUBJECT TO THE
20 JURISDICTION OF THE JUVENILE COURT REQUIRES RESIDENTIAL TREATMENT SERVICES.

21 ~~M.~~ L. For the purposes of this section, "child" means a person who
22 is under eighteen years of age and who is either:

23 1. Found to be dependent or temporarily subject to court jurisdiction
24 pending an adjudication of a dependency petition.

25 2. In the temporary custody of child protective services pursuant to
26 section 8-821.

27 ~~3. Adjudicated delinquent or incorrigible or who is in violation of~~
28 ~~probation while awaiting disposition pursuant to section 8-341.~~

29 ~~4. Detained in a juvenile court detention facility or who is placed~~
30 ~~in the physical custody of someone other than the child's natural or adoptive~~
31 ~~parent at the direction of the court or child protective services.~~

32 Sec. 5. Title 8, chapter 3, article 3, Arizona Revised Statutes, is
33 amended by adding section 8-341.01, to read:

34 8-341.01. Residential treatment services

35 A. IF AT A DISPOSITION HEARING OR A SUBSEQUENT HEARING THE COURT
36 ORDERS A DELINQUENT JUVENILE OR INCORRIGIBLE CHILD TO RECEIVE RESIDENTIAL
37 TREATMENT SERVICES, OTHER THAN PSYCHIATRIC ACUTE CARE SERVICES AS DEFINED IN
38 SECTION 8-271, THE PLACEMENT MUST BE SUPPORTED BY A WRITTEN PSYCHOLOGICAL,
39 PSYCHIATRIC OR MEDICAL EVALUATION RECOMMENDING RESIDENTIAL TREATMENT
40 SERVICES. THE COURT MAY WAIVE THE WRITTEN EVALUATION FOR GOOD CAUSE SHOWN.

41 B. IF THE COURT ORDERS A CHILD TO RECEIVE RESIDENTIAL TREATMENT
42 SERVICES, THE COURT SHALL FIND BY CLEAR AND CONVINCING EVIDENCE THAT BOTH:

43 1. THE CHILD REQUIRES RESIDENTIAL TREATMENT SERVICES TO ADDRESS THE
44 CHILD'S BEHAVIORAL, PSYCHOLOGICAL, SOCIAL OR MENTAL HEALTH NEEDS.

1 as defined in section 36-501 may be given by the person's guardian pursuant
2 to section 14-5312.01 or agent appointed pursuant to chapter 32, article 6
3 of this title if that agent was granted the authority to do this by the
4 mental health care power of attorney. If an agent gives informed consent as
5 defined in section 36-501, an evaluation shall be conducted pursuant to
6 section 36-3284.

7 B. Notwithstanding subsection C of this section, and except in the
8 case of an emergency admission, a minor who is in the custody of the juvenile
9 court, who is a ward of the juvenile court as a dependent child or who is
10 adjudicated delinquent or incorrigible shall not be admitted for evaluation
11 or treatment unless approved by the court on application filed by an entity
12 as provided in section 8-272 OR 8-273 ~~or 8-274~~.

13 C. A minor may be admitted to a mental health agency as defined in
14 section 8-201 by the written application of the parent, guardian or custodian
15 of the minor after the following has occurred:

16 1. A psychiatric investigation by the medical director of the mental
17 health agency which carefully probes the child's social, psychological and
18 developmental background.

19 2. An interview with the child by the medical director of the mental
20 health agency.

21 3. The medical director has explained to the child and the child's
22 parent, guardian or custodian the program of evaluation or treatment
23 contemplated and its probable length.

24 4. The medical director has explored and considered available
25 alternatives to inpatient treatment or evaluation.

26 5. The medical director of a mental health agency has determined
27 whether the child needs an inpatient evaluation or will benefit from care and
28 treatment of a mental disorder or other personality disorder or emotional
29 condition in the agency and whether the evaluation or treatment goals can be
30 accomplished in a less restrictive setting. A record of the reasons for this
31 determination shall be made.

32 D. If the child's situation does not satisfy the requirements of
33 subsection C of this section, the application by the parent, guardian or
34 custodian shall be refused.

35 E. All emergency admissions for mental health evaluation or treatment
36 of children shall be made pursuant to the standards and procedures in article
37 4 of this chapter.

38 F. The board of supervisors of the county of residence of a person who
39 has submitted an application for admission to the state hospital pursuant to
40 subsection A of this section shall provide transportation to the state
41 hospital for the person if it appears that the person is eligible for
42 voluntary admission to the state hospital after consultation between the
43 state hospital and the evaluation or screening agency. The county is
44 responsible for that expense to the extent the expense is not covered by any
45 third party payor.

1 Sec. 7. Section 36-560, Arizona Revised Statutes, is amended to read:
2 36-560. Admission

3 A. Persons shall be admitted to developmental disabilities programs
4 or services operated by or supported by the department only pursuant to the
5 procedures prescribed in this chapter. An application for admission shall
6 be submitted on forms provided by the department in accordance with the rules
7 and procedures adopted by the department.

8 B. Admission into any developmental disabilities program or service
9 operated by the department or supported by the department is subject to
10 availability of space in any program or service and is subject to annual
11 legislative appropriation and other available funding.

12 C. A person shall not receive developmental disabilities services
13 unless proof of the requirements set forth in section 36-559 is provided.

14 D. An application shall be signed by the responsible person. An
15 admission or assignment of any client to a program, service or facility shall
16 not be made without the consent of the responsible person. If an application
17 for admission to a residential program is made for a client who is fourteen
18 to eighteen years of age and who is capable of giving voluntary informed
19 consent, that client and the client's parent or guardian shall jointly apply,
20 unless it appears to the department that the client is manifestly incapable
21 of giving consent. An adult capable of giving consent may apply for
22 admission and may be assigned to programs, services or facilities.

23 E. If an adult applicant applies for admission, or when a minor client
24 served directly or indirectly by the department becomes eighteen years of
25 age, and the applicant or client reasonably appears to be impaired by
26 developmental disabilities to the extent that the person lacks sufficient
27 understanding or capacity to make or communicate responsible decisions
28 concerning his person, the department shall require that prior to receiving
29 or continuing to receive developmental disabilities programs or services the
30 applicant have a guardian appointed pursuant to title 14, chapter 5, or shall
31 have had a judicial determination made that it is not necessary to appoint
32 a guardian for that person.

33 F. There shall be no judicial admissions except pursuant to section
34 ~~8-272~~ 8-242 and as stipulated in section 36-559, subsection D.

35 G. No person may be admitted or assigned to any developmental
36 disabilities facility, program or service unless the person has received a
37 placement evaluation to determine the need for the developmental disabilities
38 programs and services which are appropriate for that person and the
39 admittance or assignment is consistent with the recommendation or placement
40 evaluation. Each placement evaluation shall be governed by the following
41 conditions:

42 1. The placement evaluation team shall consist of a group assigned by
43 the department which shall include a department employee to serve as the case
44 manager, the parent or guardian of the applicant and appropriate program
45 staff of the department. Counsel for the applicant and a friend or advocate

1 of the applicant designated in the application for admission may also attend
2 the evaluation sessions for the applicant.

3 2. A placement evaluation report shall be prepared within thirty days
4 after the placement evaluation is initiated which shall recommend the
5 assignment of the applicant to certain designated types of developmental
6 disabilities programs or services operated by or supported by the department.
7 In this process the specific assignment request of the responsible person
8 shall be given strong consideration.

9 3. A placement evaluation conducted by the department for the purpose
10 of determining appropriate developmental disabilities programs and services
11 shall not include an evaluation of a child for placement in a special
12 education program in a school district.

13 4. The procedure prescribed in section 36-559, subsection D
14 constitutes a placement evaluation for the purposes of this chapter.

15 H. The standards for determining the assignment for the applicant to
16 a particular service shall be in the best interest of the client, taking into
17 consideration the age, the degree or type of developmental disability, the
18 presence of other handicapping conditions of the applicant, the ability to
19 provide the applicant with the maximum opportunity to develop the person's
20 maximum potential, to provide a minimally structured residential program and
21 environment for the applicant and to provide a safe, secure and dependable
22 residential and program environment for the applicant and the particular
23 desires of the applicant. In making this determination, the placement
24 evaluation team shall consider the reports of all previous placement-type
25 evaluations performed for such applicant, the medical and program history of
26 the applicant and the services and programs available from this state,
27 contractors of this state and other providers.

28 I. After the placement evaluation report has been issued and the
29 responsible person accepts the assignment of all programs or services, the
30 department shall enroll the applicant in the programs or services within
31 thirty days, subject to the provisions of subsection B of this section. If
32 the applicant cannot be enrolled within thirty days, written and oral notice,
33 subject to the requirements of section 36-551.01, subsection P, shall be
34 given to the applicant and the responsible person, within ten days of the
35 department's determination that the applicant cannot be enrolled, informing
36 such persons of the department's determination. The notice shall also
37 include the appropriate procedures, which the applicant or the responsible
38 person should follow to assure that the applicant is enrolled.

39 J. The department may attach conditions to the direct or indirect
40 provision of services with which the client would be required to comply in
41 order to receive the services. These conditions may include requiring the
42 client to participate in appropriate day programs as a condition of providing
43 residential services and residential facilities. A client assigned to a
44 residential program may be required to assist in daily housework in
45 maintaining the facility as part of the client's individual program.

1 K. The department may refuse to provide specific services that are
2 requested by the client but that are not recommended for the client as a
3 result of the evaluation.

4 L. Application for admission shall be one of the following types:

5 1. "Regular admission" for placement of a developmentally disabled
6 person for developmental disabilities programs and services after a placement
7 evaluation has been conducted for such person.

8 2. "Emergency admission" for placement of a developmentally disabled
9 person when there is an immediate and compelling need for short-term
10 developmental disabilities programs and services.

11 M. Regular admission shall be permitted only after a placement
12 evaluation has been conducted and only if space is available at the facility
13 or in the program or service in which placement is requested.

14 N. Emergency admission for developmentally disabled applicants shall
15 be permitted even though a placement evaluation has not been performed, if:

16 1. Space is available at the facility or in the program or service in
17 which placement is requested.

18 2. The department determines that the facility, program or service
19 will meet the needs of the client.

20 3. The client has an urgent need for short-term placement and care
21 which the facility, program or service provides and is otherwise eligible for
22 services pursuant to the requirements set forth in section 36-559.

23 O. Developmental disabilities programs and services may be provided
24 to a developmentally disabled person admitted pursuant to an emergency
25 admission for a period not to exceed sixty consecutive days following
26 admission or until a placement evaluation is performed, whichever period
27 first occurs.

28 Sec. 8. Section 36-562, Arizona Revised Statutes, is amended to read:

29 36-562. Schedule of financial contribution; review of payment
30 order

31 A. Money for the support of a developmentally disabled person in a
32 residential program operated or supported by the department, except for
33 children placed in special foster homes as described in section 36-558.01,
34 pursuant to sections ~~8-272~~ 8-242, 8-514.01 and 8-845, shall be paid to the
35 department, and by it deposited, pursuant to sections 35-146 and 35-147, and
36 shall continue to be paid unless the person is terminated from such
37 residential program. Credit shall be given for any periods of temporary
38 absence, such as for home visits, vacations or other purposes.

39 B. The financial contribution by the parent of a developmentally
40 disabled minor shall terminate upon the eighteenth birthday of such person.
41 The financial contribution by parents on behalf of two or more
42 developmentally disabled persons receiving developmental disabilities
43 programs or services shall not exceed the maximum amount such parents would
44 be required to pay if only one of such children were receiving the programs
45 or services.

1 C. The department shall by rule prescribe a fee schedule for
2 developmental disability residential programs provided directly or indirectly
3 by the department. The amount of annual liability of a developmentally
4 disabled person or his estate or parent for residential programs provided
5 shall be based on the percentage of gross income of the developmentally
6 disabled person, his estate or parent, as defined by section 61 of the United
7 States internal revenue code, except that part of the gross income of a
8 self-employed person which results from the operation of his business shall
9 be adjusted by the deductions allowed in the internal revenue code relating
10 to such income in computing adjusted gross income.

11 D. The director shall review his order for payment for residential
12 care at least annually, and shall require the responsible person to update
13 the financial information provided annually or at any time upon request by
14 the county board of supervisors or by the parent, guardian, or other person
15 making such payments. The provisions of section 36-563 shall apply to any
16 order or change in order for payment.

17 E. The responsible person shall furnish current financial information
18 to the director and to the appropriate county board of supervisors at the
19 times and on the forms and in the manner prescribed by the director, provided
20 that such information shall be held by the director and the county board of
21 supervisors to be strictly confidential and it shall not be divulged except
22 in the instance where it is necessary in connection with legal action.

23 F. A financial contribution which shall not exceed the actual cost of
24 the programs and services provided may be required from the client or the
25 parent, spouse or estate of a developmentally disabled person for the cost
26 of any nonresidential developmental disability program or service operated
27 by or supported by the department. The department shall by rule adopt a fee
28 schedule for financial contributions. The amount of liability of a client
29 or the parent, spouse or estate of a client for nonresidential services and
30 programs or any combination of residential and nonresidential services and
31 programs shall not exceed the amount of the fee prescribed for residential
32 services in subsection C of this section. Counties are not required to
33 contribute to the cost of nonresidential services or programs provided to
34 clients.

35 G. The amount payable by the developmentally disabled person or his
36 parent or estate for residential services shall be fixed by the director in
37 accordance with the fee schedule prescribed in this section.

38 H. Money paid by a client, parent or guardian shall be paid to the
39 director and deposited, pursuant to sections 35-146 and 35-147, in the state
40 general fund.

41 I. The department shall provide monthly billings to all persons
42 responsible for paying for developmentally disabled residential or
43 nonresidential services and programs provided directly or indirectly by the
44 department. The department shall require all purchase of care providers to
45 provide current lists of all persons receiving residential or nonresidential

1 services and programs in facilities operated by such providers. The
2 department shall forward reports of delinquent billings for residential and
3 nonresidential services and programs provided by the department or by
4 contractors to the attorney general for collection.

5 J. The department shall notify each client and the parent or guardian
6 of such client for whom it has determined that contributions are required for
7 the cost of residential or nonresidential services and programs that it
8 reserves the right to terminate developmental disability residential or
9 nonresidential services and programs to a client for nonpayment of fees
10 required to be paid pursuant to this section.

11 K. Any person affected by an order of the director for payment of
12 costs of care may contest such order and request an administrative hearing
13 pursuant to section 36-563. Any person liable for the costs of care of a
14 client may appeal to the director, pursuant to section 36-563, for a
15 reduction in the amount of payment for such costs of care on the basis of
16 hardship.

17 L. The provisions of subsections C and G of this section
18 notwithstanding, the department may require clients who are receiving
19 residential programs and who receive income or benefits to contribute to the
20 cost of their support and maintenance, subject to the provisions of federal
21 laws and regulations. Such contributions shall not be subject to the
22 provisions of subsections A and H of this section. The department shall
23 adopt rules which determine the amount and means of payment of such
24 contributions, except that in no event shall the combined contribution made
25 on behalf of a client by a client or the client's parent or estate exceed the
26 actual cost of the residential programs provided. A minimum of thirty per
27 cent of the client's income or benefits shall be retained for the client's
28 personal use.

APPROVED BY THE GOVERNOR APRIL 9, 2001.
FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2001.

Passed the House March 12, 2001,

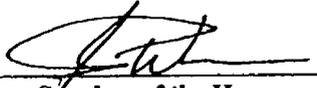
Passed the Senate April 2, 2001,

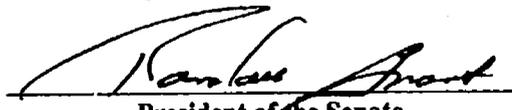
by the following vote: 51 Ayes,

by the following vote: 29 Ayes,

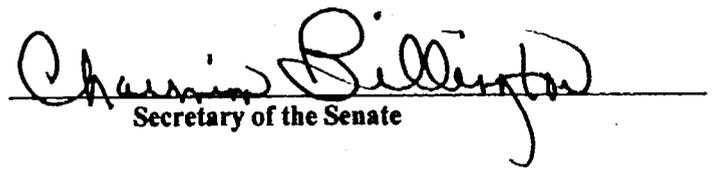
0 Nays, 9 Not Voting

0 Nays, 1 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
3 day of April, 2001,

at 12:35 o'clock P M.


Secretary to the Governor

Approved this 9th day of

April, 2001,

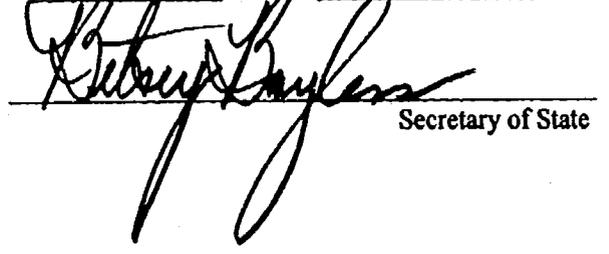
at 11:58 o'clock A M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 9 day of April, 2001,

at 4:33 o'clock P M.


Secretary of State

H.B. 2246