Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

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CHAPTER 286

HOUSE BILL 2099

AN ACT

AMENDING SECTIONS 8-501, 8-503, 8-514.01, 36-401, 36-551, 36-558, 36-558.01, 36-591, 36-592 AND 36-593, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5.1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-593.01; AMENDING SECTIONS 36-594 AND 36-594.02, ARIZONA REVISED STATUTES; REPEALING SECTION 36-595.03, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-2939 AND 41-1037, ARIZONA REVISED STATUTES; RELATING TO DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-501, Arizona Revised Statutes, is amended to read:

8-501. Definitions

A. In this article, unless the context otherwise requires:

1. "CHILD DEVELOPMENTAL CERTIFIED HOME" MEANS A REGULAR FOSTER HOME THAT IS LICENSED PURSUANT TO SECTION 8-509 AND THAT IS CERTIFIED BY THE DEPARTMENT OF ECONOMIC SECURITY PURSUANT TO SECTION 36-593.01.

~~1.~~ 2. "Child welfare agency" or "agency":

(a) Means:

(i) Any agency or institution THAT IS maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for twenty-four hour social, emotional or educational supervised care or who have been adjudicated as a delinquent or dependent child.

(ii) Any institution that provides care for unmarried mothers and their children.

(iii) Any agency THAT IS maintained by this state, a political subdivision of this state or a person, firm, corporation, association or organization to place children or unmarried mothers in a foster home.

(b) Does not include state operated institutions or facilities, detention facilities for children established by law, health care institutions that are licensed by the department of health services pursuant to title 36, chapter 4 or private agencies that exclusively provide children with social enrichment or recreational opportunities and that do not use restrictive behavior management techniques.

~~2.~~ 3. "Division" or "department" means the department of child safety.

~~3.~~ 4. "Former dependent child" means a person who was previously adjudicated a dependent child in a dependency proceeding that has been dismissed by order of the juvenile court.

~~4.~~ 5. "Foster child" means a child placed in a foster home or child welfare agency.

~~5.~~ 6. "Foster home" means a home THAT IS maintained by any individual or individuals having the care or control of minor children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals.

~~6.~~ 7. "Foster parent" means any individual or individuals maintaining a foster home.

~~7.~~ 8. "Group foster home" means a licensed regular or special foster home THAT IS suitable for placement of more than five minor children but not more than ten minor children.

~~8.~~ 9. "Out-of-home placement" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to

section 8-821, subsection A or B, voluntary placement pursuant to section 8-806 or placement due to dependency actions.

~~9.~~ 10. "Parent" means the natural or adoptive mother or father of a child.

~~10.~~ 11. "Reason for leaving care" means one of the following:

(a) Reunification with a parent or primary caretaker.

(b) Living with another relative.

(c) Adoption by a relative.

(d) Adoption by a foster parent.

(e) Adoption by another person.

(f) Age of majority.

(g) Guardianship by a relative.

(h) Guardianship by another person.

(i) Transfer to another agency.

(j) Runaway.

(k) Death.

~~11.~~ 12. "Receiving foster home" means a licensed foster home THAT IS suitable for immediate placement of children when taken into custody or pending medical examination and court disposition.

~~12.~~ 13. "Regular foster home" means a licensed foster home THAT IS suitable for placement of not more than five minor children.

~~13.~~ 14. "Relative" means a grandparent, great-grandparent, brother or sister of whole or half blood, aunt, uncle or first cousin.

~~14.~~ 15. "Restrictive behavior management" means an intervention or procedure that attempts to guide, redirect, modify or manage behavior through the use of any of the following:

(a) Physical force to cause a child to comply with a directive. Physical force does not include physical escort. For the purposes of this subdivision, "physical escort" means temporarily touching or holding a child's hand, wrist, arm, shoulder or back to induce the child to walk to a safe location.

(b) A device, action or medication to restrict the movement or normal function of a child in order to control or change the child's behavior and that includes:

(i) Chemical restraint. For the purposes of this item, "chemical restraint" means the use of any psychoactive medication as a restraint to control the child's behavior or to restrict the child's freedom of movement and that is not a standard treatment for the child's medical or psychiatric condition.

(ii) Mechanical restraint. For the purposes of this item, "mechanical restraint" means the use of any physical device to limit a child's movement and to prevent the child from causing harm to self or to others. Mechanical restraint does not include devices such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets or any other method that involves the physical holding of a child to conduct a routine physical

examination or test or to protect the child from falling out of bed or to permit the child to participate in activities in order to reduce the risk of physical harm to the child.

(iii) Physical restraint. For the purposes of this item, "physical restraint" means applying physical force to reduce or restrict a child's ability to freely move the child's arms, legs or head. Physical restraint does not include temporarily holding a child to permit the child to participate in activities of daily living if this holding does not involve the risk of physical harm to the child.

(iv) Seclusion. For the purposes of this item, "seclusion" means placing a child against the child's will in a room in which the child is unable to open the door in order to prevent the child from doing harm to self or others.

~~15.~~ 16. "Special foster home" means a licensed foster home THAT IS capable of handling not more than five minor children who require special care for physical, mental or emotional reasons or who have been adjudicated delinquent. Special foster home includes any home handling foster children aged twelve through seventeen.

B. A foster home or any classification of foster home defined in subsection A of this section includes a home having the care of persons who are under twenty-one years of age and the cost of whose care is provided pursuant to section 8-521.01.

Sec. 2. Section 8-503, Arizona Revised Statutes, is amended to read:

8-503. Powers and duties

A. The division shall:

1. Exercise supervision over all child welfare agencies.

2. Advise and cooperate with the governing boards of all child welfare agencies.

3. Assist the staffs of all child welfare agencies by giving advice on progressive methods and procedures of child care and improvement of services.

4. Establish rules, regulations~~,~~ and standards for:

(a) Licensing of child welfare agencies.

(b) Licensing of foster homes.

(c) Classifications of foster homes as:

(i) Receiving foster homes.

(ii) Regular foster homes.

(iii) Special classes of foster homes as are needed according to the types of problems involved.

(iv) Group foster homes.

(d) Certifying each foster home according to one or more of the categories prescribed in subdivision (c) of this paragraph.

(e) Initial and ongoing foster parent training programs.

(f) The method of approving foster parent training programs.

(g) Uniform amounts of payment for all foster homes according to certification. However, variations in uniform amounts of payments may be

allowed for foster homes based on consideration of geographical location or age or mental or physical condition of a foster child.

(h) Renewal of licenses of child welfare agencies and foster homes.

(i) Form and content of investigations, reports and studies concerning disposition of children and foster home placement.

5. Establish a program of counseling and rehabilitation of parents whose children have been placed in foster homes.

6. Establish foster parent training programs or contract with other agencies, institutions or groups for the provision of such programs to foster parents. Foster parent training programs shall be established in at least the following areas:

(a) Initial and ongoing training as a foster parent for a regular or group foster home.

(b) Initial and ongoing training as a foster parent for a special foster home.

7. Regulate the importation and exportation of children.

8. In conjunction with the department of education and the department of juvenile corrections, develop and implement a uniform budget format to be submitted by licensed child welfare agencies. The budget format shall be developed in such a manner that, at a minimum, residential and educational instructional costs are separate and distinct budgetary items.

9. ~~Beginning October 1, 1983,~~ Establish as a goal that, at any given time, not more than fifty ~~per cent~~ PERCENT of the total number of children whose maintenance is subsidized by title IV, part E of the social security act, as amended, shall be in foster care in excess of twenty-four consecutive months. The division shall establish through regulations appropriate procedures to achieve the goal.

B. Except as provided in section 8-514.01, large group settings for children, group homes for children and child developmental ~~foster~~ homes ~~which~~ THAT have one or more residents who are clients of the department with developmental disabilities shall be licensed pursuant to title 36, chapter 5.1, article 3. Rules, regulations and standards adopted pursuant to subsection A, paragraph 4 of this section shall not apply to group homes for children or child developmental ~~foster~~ homes licensed pursuant to title 36, chapter 5.1, article 3.

Sec. 3. Section 8-514.01, Arizona Revised Statutes, is amended to read:

8-514.01. <u>Placement of children with developmental disabilities</u>

A. All foster placements of children with developmental disabilities made by the division shall be made to child developmental ~~foster~~ homes for children with developmental disabilities THAT ARE operated or licensed by the department of economic security pursuant to title 36, chapter 5.1, article 3 AND that provide specialized programs for children with developmental disabilities, except that placements of children with developmental disabilities to ~~other types of~~ foster homes licensed pursuant to this article

may be made~~,~~ if the division determines that such placement is in the best interests of the child.

B. A REGULAR FOSTER HOME SHALL APPLY FOR CERTIFICATION AS A CHILD DEVELOPMENTAL CERTIFIED HOME PURSUANT TO SECTION 36-593.01 IF EITHER OF THE FOLLOWING APPLIES:

1. THE DEPARTMENT OF CHILD SAFETY HAS PLACED A FOSTER CHILD WITH A DEVELOPMENTAL DISABILITY IN THE FOSTER HOME.

2. A FOSTER CHILD IN THE FOSTER HOME HAS BEEN DETERMINED BY THE DEPARTMENT OF ECONOMIC SECURITY TO HAVE A DEVELOPMENTAL DISABILITY.

C. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO A REGULAR FOSTER HOME OR GROUP FOSTER HOME WITH A FOSTER CHILD WITH A DEVELOPMENTAL DISABILITY WHO WAS PLACED IN THE HOME BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION. ANY SUCH PLACEMENTS SHALL CONTINUE TO BE LICENSED, CERTIFIED AND MONITORED BY BOTH THE DEPARTMENT OF CHILD SAFETY AND THE DEPARTMENT OF ECONOMIC SECURITY.

Sec. 4. Section 36-401, Arizona Revised Statutes, is amended to read:

36-401. <u>Definitions; adult foster care</u>

A. In this chapter, unless the context otherwise requires:

1. "Accredited health care institution" means a health care institution, other than a hospital, that is currently accredited by a nationally recognized accreditation organization.

2. "Accredited hospital" means a hospital that is currently accredited by a nationally recognized organization on hospital accreditation.

3. "Adult day health care facility" means a facility that provides adult day health services during a portion of a continuous twenty-four-hour period for compensation on a regular basis for five or more adults who are not related to the proprietor.

4. "Adult day health services" means a program that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous twenty-four-hour period. Adult day health services may also include preventive, therapeutic and restorative health-related services that do not include behavioral health services.

5. "Adult foster care home" means a residential setting that provides room and board and adult foster care services for at least one and no more than four adults who are participants in the Arizona long-term care system pursuant to chapter 29, article 2 of this title or contracts for services with the United States department of veterans affairs and in which the sponsor or the manager resides with the residents and integrates the residents who are receiving adult foster care into that person's family.

6. "Adult foster care services" means supervision, assistance with eating, bathing, toileting, dressing, self-medication and other routines of daily living or services authorized by rules adopted pursuant to section 36-405 and section 36-2939, subsection C.

7. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.

8. "Assisted living facility" means a residential care institution, including an adult foster care home, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuous basis.

9. "Assisted living home" means an assisted living facility that provides resident rooms to ten or fewer residents.

10. "Behavioral health services" means services that pertain to mental health and substance use disorders and that are either:

(a) Performed by or under the supervision of a professional who is licensed pursuant to title 32 and whose scope of practice allows for the provision of these services.

(b) Performed on behalf of patients by behavioral health staff as prescribed by rule.

11. "Construction" means the building, erection, fabrication or installation of a health care institution.

12. "Continuous" means available at all times without cessation, break or interruption.

13. "Controlling person" means a person who:

(a) Through ownership, has the power to vote at least ten ~~per cent~~ PERCENT of the outstanding voting securities.

(b) If the applicant or licensee is a partnership, is the general partner or a limited partner who holds at least ten ~~per cent~~ PERCENT of the voting rights of the partnership.

(c) If the applicant or licensee is a corporation, an association or a limited liability company, is the president, the chief executive officer, the incorporator or any person who owns or controls at least ten ~~per cent~~ PERCENT of the voting securities. For the purposes of this subdivision, corporation does not include nonprofit corporations.

(d) Holds a beneficial interest in ten ~~per cent~~ PERCENT or more of the liabilities of the applicant or the licensee.

14. "Department" means the department of health services.

15. "Directed care services" means programs and services, including supervisory and personal care services, that are provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.

16. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

17. "Director" means the director of the department of health services.

18. "Facilities" means buildings that are used by a health care institution for providing any of the types of services as defined in this chapter.

19. "Freestanding urgent care center":

(a) Means an outpatient treatment center that, regardless of its posted or advertised name, meets any of the following requirements:

(i) Is open twenty-four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.

(ii) Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.

(iii) By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.

(iv) Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.

(b) Does not include the following:

(i) A medical facility that is licensed under a hospital's license and that uses the hospital's medical provider number.

(ii) A qualifying community health center pursuant to section 36-2907.06.

(iii) Any other health care institution licensed pursuant to this chapter.

(iv) A physician's office that offers extended hours or ~~same-day~~ SAME-DAY appointments to existing and new patients and that does not meet the requirements of subdivision (a), item (i), (iii) or (iv) of this paragraph.

20. "Governing authority" means the individual, agency, partners, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.

21. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151, outdoor behavioral health care programs and hospice service agencies. HEALTH CARE INSTITUTION DOES NOT INCLUDE A COMMUNITY RESIDENTIAL SETTING AS DEFINED IN SECTION 36-551.

22. "Health-related services" means services, other than medical, that pertain to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.

23. "Health screening services" means the acquisition, analysis and delivery of health-related data of individuals to aid in the determination of the need for medical services.

24. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.

25. "Hospice service" means a program of palliative and supportive care for terminally ill persons and their families or caregivers.

26. "Hospice service agency" means an agency or organization, or a subdivision of that agency or organization, that is engaged in providing hospice services at the place of residence of its clients.

27. "Inpatient beds" or "resident beds" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.

28. "Licensed capacity" means the total number of persons for whom the health care institution is authorized by the department to provide services as required pursuant to this chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.

29. "Medical services" means the services that pertain to medical care and that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.

30. "Modification" means the substantial improvement, enlargement, reduction or alteration of or other change in a health care institution.

31. "Nonproprietary institution" means any health care institution that is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or that is operated by the state or any political subdivision of the state.

32. "Nursing care institution" means a health care institution that provides inpatient beds or resident beds and nursing services to persons who need continuous nursing services but who do not require hospital care or direct daily care from a physician.

33. "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

34. "Organized medical staff" means a formal organization of physicians, and dentists where appropriate, with the delegated authority and responsibility to maintain proper standards of medical care and to plan for continued betterment of that care.

35. "Outdoor behavioral health care program" means an agency that provides behavioral health services in an outdoor environment as an alternative to behavioral health services that are provided in a health care institution with facilities. Outdoor behavioral health care programs do not include:

(a) Programs, facilities or activities that are operated by a government entity or that are licensed by the department as a child care program pursuant to chapter 7.1 of this title.

(b) Outdoor activities for youth that are designated to be primarily recreational and that are organized by church groups, scouting organizations or similar groups.

1 (c) Outdoor youth programs licensed by the department of economic
2 security.
3 36. "Personal care services" means assistance with activities of daily
4 living that can be performed by persons without professional skills or
5 professional training and includes the coordination or provision of
6 intermittent nursing services and the administration of medications and
7 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as
8 otherwise provided by law.
9 37. "Physician" means any person who is licensed pursuant to title 32,
10 chapter 13 or 17.
11 38. "Residential care institution" means a health care institution
12 other than a hospital or a nursing care institution that provides resident
13 beds or residential units, supervisory care services, personal care services,
14 behavioral health services, directed care services or health-related services
15 for persons who do not need continuous nursing services.
16 39. "Residential unit" means a private apartment, unless otherwise
17 requested by a resident, that includes a living and sleeping space, kitchen
18 area, private bathroom and storage area.
19 40. "Respite care services" means services that are provided by a
20 licensed health care institution to persons otherwise cared for in foster
21 homes and in private homes to provide an interval of rest or relief of not
22 more than thirty days to operators of foster homes or to family members.
23 41. "Substantial compliance" means that the nature or number of
24 violations revealed by any type of inspection or investigation of a health
25 care institution does not pose a direct risk to the life, health or safety of
26 patients or residents.
27 42. "Supervision" means direct overseeing and inspection of the act of
28 accomplishing a function or activity.
29 43. "Supervisory care services" means general supervision, including
30 daily awareness of resident functioning and continuing needs, the ability to
31 intervene in a crisis and assistance in the self-administration of prescribed
32 medications.
33 44. "Temporary license" means a license that is issued by the
34 department to operate a class or subclass of a health care institution at a
35 specific location and that is valid until an initial licensing inspection.
36 45. "Unscheduled medical services" means medically necessary periodic
37 health care services that are unanticipated or cannot reasonably be
38 anticipated and that require medical evaluation or treatment before the next
39 business day.
40 B. If there are fewer than four Arizona long-term care system
41 participants receiving adult foster care in an adult foster care home,
42 nonparticipating adults may receive other types of services that are
43 authorized by law to be provided in the adult foster care home as long as the
44 number of adults served, including the Arizona long-term care system
45 participants, does not exceed four.

C. Nursing care services may be provided by the adult foster care licensee if the licensee is a nurse who is licensed pursuant to title 32, chapter 15 and the services are limited to those allowed pursuant to law. The licensee shall keep a record of nursing services rendered.

Sec. 5. Heading change

The chapter heading of title 36, chapter 5.1, Arizona Revised Statutes, is changed from "STATE DEPARTMENT OF DEVELOPMENTAL DISABILITIES" to "DEVELOPMENTAL DISABILITIES".

Sec. 6. Section 36-551, Arizona Revised Statutes, is amended to read:

36-551. Definitions

In this chapter, unless the context otherwise requires:

1. "Adaptive behavior" means the effectiveness or degree to which the individual meets the standards of personal independence and social responsibility expected of the person's age and cultural group.

2. "Adult developmental home" means a residential setting in a family home in which the care, physical custody and supervision of the adult client are the responsibility, under a ~~twenty-four hour~~ TWENTY-FOUR-HOUR care model, of the licensee who, in that capacity, is not an employee of the division or of a service provider and the home provides the following services for a group of siblings or up to three adults with developmental disabilities:

(a) Room and board.

(b) Habilitation.

(c) Appropriate personal care.

(d) Appropriate supervision.

3. "Adult household member" means a person who is at least eighteen years of age and who resides in an adult developmental home, child developmental ~~foster~~ home~~, secure setting~~ or OTHER home and community based service setting for at least thirty days or who resides in the household throughout the year for more than a cumulative total of thirty days.

4. "Advisory council" means the developmental disabilities advisory council.

5. "Arizona training program facility" means a ~~state operated~~ STATE-OPERATED institution for clients OF THE DEPARTMENT with developmental disabilities ~~of the department~~.

6. "Attributable to cognitive disability, epilepsy, cerebral palsy or autism" means that there is a causal relationship between the presence of an impairing condition and the developmental disability.

7. "Autism" means a condition characterized by severe disorders in communication and behavior resulting in limited ability to communicate, understand, learn and participate in social relationships.

8. "Case management" means coordinating the assistance needed by persons with developmental disabilities and their families in order to ensure that persons with developmental disabilities attain their maximum potential for independence, productivity and integration into the community.

9. "Case manager" means a person who coordinates the implementation of the individual program plan of goals, objectives and appropriate services for persons with developmental disabilities.

10. "Cerebral palsy" means a permanently disabling condition resulting from damage to the developing brain that may occur before, after or during birth and that results in loss or impairment of control over voluntary muscles.

11. "CHILD DEVELOPMENTAL CERTIFIED HOME" MEANS A REGULAR FOSTER HOME AS DEFINED IN SECTION 8-501 THAT IS LICENSED PURSUANT TO SECTION 8-509 AND THAT IS CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 36-593.01.

~~11.~~ 12. "Child developmental ~~foster~~ home" means a residential setting in a family home in which the care~~, physical custody~~ and supervision of the child are the responsibility, under a ~~twenty-four hour~~ TWENTY-FOUR-HOUR care model, of the licensee who serves as the ~~foster parent~~ DEVELOPMENTAL HOME PROVIDER of the child in the home setting and who, in that capacity, is not an employee of the division or of a service provider and the home provides the following services for a group of siblings or up to three children with developmental disabilities:

(a) Room and board.

(b) Habilitation.

(c) Appropriate personal care.

(d) Appropriate supervision.

~~12.~~ 13. "Client" means a person receiving developmental disabilities services from the department.

~~13.~~ 14. "Cognitive disability" means a condition that involves subaverage general intellectual functioning, that exists concurrently with deficits in adaptive behavior manifested before THE age OF eighteen and that is sometimes referred to as intellectual disability.

~~14.~~ 15. "Community residential setting" means a RESIDENTIAL SETTING IN WHICH PERSONS WITH DEVELOPMENTAL DISABILITIES LIVE AND ARE PROVIDED WITH APPROPRIATE SUPERVISION BY THE SERVICE PROVIDER RESPONSIBLE FOR THE OPERATION OF THE RESIDENTIAL SETTING. COMMUNITY RESIDENTIAL SETTING INCLUDES A child developmental ~~foster~~ home~~,~~ OR an adult developmental home OPERATED OR CONTRACTED BY THE DEPARTMENT OR THE DEPARTMENT'S CONTRACTED VENDOR or a ~~secure setting~~ GROUP HOME operated or contracted by the department ~~in which persons with developmental disabilities live and are provided with appropriate supervision by the service provider responsible for the operation of the residential setting~~.

~~15.~~ 16. "Consent" means voluntary informed consent. Consent is voluntary if not given as the result of coercion or undue influence. Consent is informed if the person giving the consent has been informed of and comprehends the nature, purpose, consequences, risks and benefits of the alternatives to the procedure, and has been informed and comprehends that withholding or withdrawal of consent will not prejudice the future provision of care and services to the client. In cases of unusual or hazardous

treatment procedures performed pursuant to section 36-561, subsection A, experimental research, organ transplantation and nontherapeutic surgery, consent is informed if, in addition to the foregoing, the person giving the consent has been informed of and comprehends the method to be used in the proposed procedure.

~~16.~~ 17. "Daily habilitation" means habilitation as defined in this section except that the method of payment is for one unit per residential day.

~~17.~~ 18. "Department" means the department of economic security.

~~18.~~ 19. "Developmental disability" means either a strongly demonstrated potential that a child under six years of age has a developmental disability or will ~~become a child with~~ DEVELOP a developmental disability, as determined by a test performed pursuant to section 36-694 or by other appropriate tests, or a severe, chronic disability that:

(a) Is attributable to cognitive disability, cerebral palsy, epilepsy or autism.

(b) Is manifested before THE age OF eighteen.

(c) Is likely to continue indefinitely.

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care.

(ii) Receptive and expressive language.

(iii) Learning.

(iv) Mobility.

(v) Self-direction.

(vi) Capacity for independent living.

(vii) Economic self-sufficiency.

(e) Reflects the need for a combination and sequence of individually planned or coordinated special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration.

~~19.~~ 20. "Director" means the director of the department of economic security.

~~20.~~ 21. "Division" means the division of developmental disabilities in the department of economic security.

~~21.~~ 22. "Epilepsy" means a neurological condition characterized by abnormal electrical-chemical discharge in the brain. This discharge is manifested in various forms of physical activities called seizures.

~~22.~~ 23. "Group home" means a COMMUNITY residential setting for not more than six persons with developmental disabilities that is operated by a service provider under contract with the ~~division~~ DEPARTMENT and that provides~~, in a shared living environment,~~ room and board and daily habilitation, AND OTHER ASSESSED MEDICALLY NECESSARY SERVICES AND SUPPORTS TO MEET THE NEEDS OF EACH PERSON. Group home does not include an adult developmental home, a child developmental ~~foster~~ home~~, a secure setting~~ or an intermediate care facility for persons with an intellectual disability.

1 ~~23.~~ 24. "Guardian" means the person who, under court order, is
2 appointed to fulfill the powers and duties prescribed in section 14-5312.
3 Guardian does not include a guardian pursuant to section 14-5312.01.
4 ~~24.~~ 25. "Habilitation" means the process by which a person is
5 assisted to acquire and maintain those life skills that enable the person to
6 cope more effectively with personal and environmental demands and to raise
7 the level of the person's physical, mental and social efficiency.
8 ~~25.~~ 26. "Indigent" means a person with a developmental disability
9 whose estate or parent is unable to bear the full cost of maintaining or
10 providing services for that person in a developmental disabilities program.
11 ~~26.~~ 27. "Individual program plan" means a written statement of
12 services to be provided to a person with developmental disabilities,
13 including habilitation goals and objectives, ~~which~~ THAT is developed
14 following initial placement evaluation and revised after periodic
15 evaluations.
16 ~~27.~~ 28. "Intermediate care facility for persons with an intellectual
17 disability" means a facility that primarily provides health and
18 rehabilitative services to persons with developmental disabilities that are
19 above the service level of room and board or supervisory care services or
20 personal care services as defined in section 36-401 but that are less
21 intensive than skilled nursing services.
22 ~~28.~~ 29. "Large group setting" means a setting that in addition to
23 residential care provides support services such as therapy, recreation and
24 transportation to seven or more persons with developmental disabilities who
25 require intensive supervision.
26 ~~29.~~ 30. "Least restrictive alternative" means an available program or
27 facility that fosters independent living, that is the least confining for the
28 client's condition and where service and treatment are provided in the least
29 intrusive manner reasonably and humanely appropriate to the individual's
30 needs.
31 ~~30.~~ 31. "Likely to continue indefinitely" means that the
32 developmental disability has a reasonable likelihood of continuing for a
33 protracted period of time or for life.
34 ~~31.~~ 32. "Manifested before THE age OF eighteen" means that the
35 disability must be apparent and have a substantially limiting effect on a
36 person's functioning before THE age OF eighteen.
37 ~~32.~~ 33. "Physician" means a person who is licensed to practice
38 pursuant to title 32, chapter 13 or 17.
39 ~~33.~~ 34. "Placement evaluation" means an interview and evaluation of a
40 person with a developmental disability and a review of the person's prior
41 medical and program histories to determine the appropriate developmental
42 disability programs and services for the person and recommendations for
43 specific program placements for the person.
44 ~~34.~~ 35. "Psychologist" means a person who is licensed pursuant to
45 title 32, chapter 19.1.

~~35.~~ 36. "Respite services" means services that provide a short-term or long-term interval of rest or relief to the care provider of a person with a developmental disability.

~~36.~~ 37. "Responsible person" means the parent or guardian of a minor with a developmental disability, the guardian of an adult with a developmental disability or an adult with a developmental disability who is a client or an applicant for whom no guardian has been appointed.

~~37. "Secure facility" means a facility that is licensed and monitored by the division, that is designed to provide both residential and program services within the facility and that is operated to prevent clients from leaving because of the danger they may present to themselves and the community.~~

38. "Service provider" means a person or agency that provides services to clients pursuant to a contract, service agreement or qualified vendor agreement with the division.

39. "State operated service center" means a state owned or leased facility that is operated by the department and that provides temporary residential care and space for child and adult services that include respite care, crisis intervention and diagnostic evaluation.

40. "Subaverage general intellectual functioning" means measured intelligence on standardized psychometric instruments of two or more standard deviations below the mean for the tests used.

41. "Substantial functional limitation" means a limitation so severe that extraordinary assistance from other people, programs, services or mechanical devices is required to assist the person in performing appropriate major life activities.

42. "Supervision" means the process by which the activities of an individual with developmental disabilities are directed, influenced or monitored.

Sec. 7. Section 36-558, Arizona Revised Statutes, is amended to read:

36-558. <u>Establishment and maintenance of programs and services; definition</u>

A. In addition to the Arizona training program facilities at Randolph and Tucson, the director shall establish and maintain a state owned and operated service center in Phoenix and other developmental disabilities programs and services at other locations throughout the state, subject to the availability of funds for such purpose and the approval of the legislature.

B. The director is responsible for the operation of each developmental disabilities program and service, shall coordinate these services and shall permit the transfer of residents between the various programs.

C. The department may provide, but not be limited to, the following programs and services in addition to other services prescribed by the director:

1. Child services, which may include:

(a) Infant stimulation.

(b) Developmental day training and related preschool programs.
(c) Special education at department facilities.
2. Adult services, which may include:
(a) Job training for specific jobs.
(b) Training and personal adjustment tools such as the teaching of work skills.
(c) Job development and placement.
(d) The provision of sheltered employment opportunities.
(e) Adult day activity services.
3. Residential services, which shall include:
(a) Arizona training program facilities.
(b) State owned and operated service centers.
(c) Community residential settings under varying degrees of supervision or a semi-independent living arrangement. ~~Community residential settings include, subject to the availability of funding, a secure facility.~~
(d) Respite care.
4. Resource services, which may include:
(a) ~~Diagnosis~~ DIAGNOSES and ~~evaluation~~ EVALUATIONS.
(b) Therapy services, including physical therapy, speech therapy, occupational therapy and behavioral therapy.
(c) Health-related services, including dental services.
(d) Social development and adjustment services, including recreation programs.
(e) Transportation.
(f) Information and referral.
(g) In-home services.
5. Public information resources on developmental disabilities.
6. Training and practicum programs in conjunction with other state agencies and universities and colleges for teachers, psychologists, social workers, medical personnel and others interested in the field of developmental disabilities.
7. Research laboratories in the fields of behavioral services and abstract research.
8. Guardianship services.
D. Services of a facility may not supplant existing community services THAT ARE provided through other local, city or state resources.
E. The department shall stimulate, cooperate with and promote the development of community programs through existing resources and provide consultation wherever needed.
F. A service provider who is providing guardianship services must comply with the disclosure requirements of section 14-5106 and shall not provide services to a person with developmental disabilities that would cause a conflict of interest or that would jeopardize the service provider's ability to represent the person with developmental disabilities as a guardian.

G. For the purposes of this section, "guardianship services" means services offered to a person with developmental disabilities by a service provider who is under contract with the division to act as a guardian to a person with developmental disabilities if no other appropriate guardian is available.

Sec. 8. Section 36-558.01, Arizona Revised Statutes, is amended to read:

36-558.01. Operation, support and supervision of child developmental homes and foster homes; duties of department

A. The department shall operate directly or support and supervise child developmental ~~foster~~ homes and foster homes licensed pursuant to title 8, chapter 4, article 4 to provide specialized foster care to persons with developmental disabilities. Such homes shall be operated for persons placed pursuant to sections 8-514.01 and 8-845 and for appropriate placements for persons for whom AN application for residential services has been made to the department.

B. In furtherance of its responsibility pursuant to subsection A of this section, the department shall recruit, license and support such homes in accordance with this chapter, maintain regular supervision of such homes and such placements, conduct training programs for the staff of such homes and develop the program and service standards for persons with developmental disabilities to be placed in such homes.

C. Foster homes supported by the department shall be paid for each person with a developmental disability placed in the home an amount determined by the department based on the type of developmental disability and the consequent need for programs and services of each person so placed.

Sec. 9. Section 36-591, Arizona Revised Statutes, is amended to read:

36-591. Adult developmental homes; child developmental homes; licensing; applicability

A. An adult developmental home~~,~~ OR child developmental ~~foster~~ home ~~or secure facility~~ shall be licensed pursuant to this article.

B. Group homes, except for those described in subsection E of this section, shall be licensed for health and safety by the department of health services pursuant to section 36-132.

C. The division shall notify the department of health services of:

1. Service providers who enter into contracts with the division for group homes.

2. Any violation of health and safety standards observed during monitoring visits.

D. The department of health services shall immediately notify the division:

1. When a group home license has been denied, suspended or revoked.

2. Of any other licensing action taken on a group home by the department of health services.

3. Of substantiated complaints regarding health and safety.

E. The division shall ensure that ~~state operated~~ STATE-OPERATED residential settings that are owned or leased facilities operated by the division meet the same standards as group homes unless they are certified as intermediate care facilities for persons with an intellectual disability pursuant to 42 Code of Federal Regulations section 483.400. AN INTERMEDIATE CARE FACILITY FOR PERSONS WITH AN INTELLECTUAL DISABILITY THAT IS OPERATED BY THE DIVISION OR A PRIVATE ENTITY IS NOT REQUIRED TO BE LICENSED UNDER THIS SECTION IF THE FACILITY IS CERTIFIED PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION 483.400.

F. The department shall visit each adult developmental home and child developmental ~~foster~~ home and inspect the premises used for the care of children or vulnerable adults for sanitation, fire and other actual and potential hazards. The department shall take any action it deems necessary to carry out the duties imposed by this section, including the denial of the application for licensure and the suspension or revocation of the home's license.

~~G. An intermediate care facility for persons with an intellectual disability is not required to be licensed under this section if it is certified pursuant to 42 Code of Federal Regulations section 483.400.~~

Sec. 10. Section 36-592, Arizona Revised Statutes, is amended to read:

36-592. Adult developmental homes; child developmental homes; license application; investigation and operation

A. An applicant for an adult developmental home~~,~~ OR child developmental ~~foster~~ home ~~or secure facility~~ license shall submit an application on a form prescribed by the department.

B. Before issuing a license to an applicant, the department shall investigate the activities and standards of care within the setting, the financial stability of the applicant, the character and training of the applicant and the adequacy of services. The department by rule shall establish standards for licensure.

C. Each license shall state in general terms the kind of setting the licensee is authorized to operate and shall prescribe the number, ages and sex of clients.

D. A licensee who holds an adult developmental home~~,~~ OR child developmental ~~foster~~ home ~~or secure facility~~ license shall:

1. Comply with applicable health, safety and sanitation codes or standards and document its compliance.

2. File reports as prescribed by the department.

3. Allow the department to inspect or monitor its services and facility and the facility's books and records.

4. Comply with rules adopted by the department.

5. Provide for the health, safety and welfare of ~~its~~ THE LICENSEE'S clients.

E. A license expires one year from the date of issuance.

F. For each adult developmental home~~,~~ AND child developmental ~~foster~~ home ~~and secure facility~~, the department shall:

1. Conduct an annual home visit.

2. Monitor the settings for compliance with department rules at least two times per year.

Sec. 11. Section 36-593, Arizona Revised Statutes, is amended to read:

36-593. Adult developmental homes; child developmental homes; provisional licenses

A. The department may issue a provisional license to an applicant or licensee who is temporarily unable to conform to standards of care established by the department if the deficiencies can be remedied within six months.

B. A provisional license is valid for six months and shall not be renewed.

C. The department shall not issue a provisional license if conditions exist that could endanger the health and safety of clients residing in the setting.

D. If the department determines that the applicant or licensee meets the standards established by the department, ~~it~~ THE DEPARTMENT shall issue a regular license. The regular license is valid for one year from the date the department issued the provisional license.

Sec. 12. Title 36, chapter 5.1, article 3, Arizona Revised Statutes, is amended by adding section 36-593.01, to read:

36-593.01. Child developmental certified homes; certification; requirements; renewal; rules; definitions

A. THE DEPARTMENT MAY CERTIFY AS A CHILD DEVELOPMENTAL CERTIFIED HOME A REGULAR FOSTER HOME AS DEFINED IN SECTION 8-501 THAT IS LICENSED PURSUANT TO SECTION 8-509 TO CARE FOR SPECIFIC FOSTER CHILDREN WITH DEVELOPMENTAL DISABILITIES.

B. A REGULAR FOSTER HOME THAT IS APPLYING TO BE A CHILD DEVELOPMENTAL CERTIFIED HOME SHALL MEET THE REQUIREMENTS OF THIS SECTION. THE CHILD DEVELOPMENTAL CERTIFICATION TERMINATES WHEN ALL CHILDREN WITH DEVELOPMENTAL DISABILITIES LEAVE THE HOME OR ARE ADOPTED BY THE FOSTER PARENTS.

C. THE DEPARTMENT OF CHILD SAFETY SHALL RESTRICT THE REGULAR FOSTER HOME LICENSE AND THE DEPARTMENT OF ECONOMIC SECURITY SHALL RESTRICT CERTIFICATION UNDER THIS SECTION TO THE SPECIFIC CHILDREN IN THE HOME AT THE TIME OF CERTIFICATION CONSISTENT WITH THE FOLLOWING:

1. THE DEPARTMENT OF CHILD SAFETY MAY NOT PLACE ANY ADDITIONAL FOSTER CHILD IN THE HOME AFTER CERTIFICATION UNLESS THE DEPARTMENT OF ECONOMIC SECURITY RECERTIFIES THE HOME FOR THE NEW PLACEMENT.

2. IF THE DEPARTMENT OF ECONOMIC SECURITY RECERTIFIES THE HOME FOR THE ADDITIONAL FOSTER CHILD PLACEMENT, THE DEPARTMENT OF CHILD SAFETY SHALL AMEND THE RESTRICTIONS ON THE REGULAR FOSTER HOME LICENSE AND THE DEPARTMENT OF ECONOMIC SECURITY SHALL AMEND THE RESTRICTIONS ON THE CERTIFICATION TO INCLUDE THE NEW PLACEMENT.

D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, THE MAXIMUM NUMBER OF FOSTER CHILDREN WHO MAY BE PLACED IN A CHILD DEVELOPMENTAL CERTIFIED HOME AT ANY ONE TIME MAY NOT EXCEED FIVE FOSTER CHILDREN, NOT MORE THAN THREE OF WHOM HAVE DEVELOPMENTAL DISABILITIES.

E. A REGULAR FOSTER HOME THAT IS CERTIFIED AS A CHILD DEVELOPMENTAL CERTIFIED HOME UNDER THIS SECTION SHALL COMPLY WITH THE TRAINING, LIFE SAFETY AND MONITORING REQUIREMENTS SPECIFIED BY THE DEPARTMENT OF ECONOMIC SECURITY.

F. THE DEPARTMENT OF CHILD SAFETY AND THE DEPARTMENT OF ECONOMIC SECURITY SHALL COORDINATE AND SHARE ALL OF THE FOLLOWING INFORMATION REGARDING EACH CHILD DEVELOPMENTAL CERTIFIED HOME:

1. MONITORING INFORMATION.

2. UNUSUAL INCIDENT REPORTS.

3. DEPARTMENT OF CHILD SAFETY INFORMATION, INVESTIGATIONS AND REPORTS PURSUANT TO SECTION 8-807.

4. LICENSING INFORMATION.

5. CHANGES IN HOUSEHOLD COMPOSITION AND FOSTER CHILD PLACEMENTS.

6. ANY OTHER INFORMATION NECESSARY FOR THE DEPARTMENT OF CHILD SAFETY AND THE DEPARTMENT OF ECONOMIC SECURITY TO COORDINATE THE LICENSURE AND CERTIFICATION OF THE CHILD DEVELOPMENTAL CERTIFIED HOME.

G. THE DEPARTMENT OF ECONOMIC SECURITY SHALL CONDUCT AN INITIAL AND SUBSEQUENT LIFE SAFETY INSPECTION AND MONITOR THE CHILD DEVELOPMENTAL CERTIFIED HOME FOR COMPLIANCE WITH THE CERTIFICATION REQUIREMENTS UNDER THIS SECTION. THE RESULTS OF THE DEPARTMENT OF ECONOMIC SECURITY'S LIFE SAFETY INSPECTION SHALL SATISFY THE LIFE SAFETY INSPECTION REQUIREMENTS OF THE DEPARTMENT OF CHILD SAFETY FOSTER HOME LICENSE.

H. THE DEPARTMENT OF CHILD SAFETY SHALL CONTINUE TO MONITOR THE CHILD DEVELOPMENTAL CERTIFIED HOME FOR COMPLIANCE WITH REGULAR FOSTER HOME REQUIREMENTS.

I. THE DEPARTMENT OF CHILD SAFETY SHALL PAY FOR THE COST OF CARE OF A FOSTER CHILD, EXCEPT FOR A FOSTER CHILD WITH A DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE PURSUANT TO CHAPTER 29, ARTICLE 2 OF THIS TITLE. THE DEPARTMENT OF ECONOMIC SECURITY SHALL PAY FOR THE COST OF CARE OF A CHILD WITH A DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE PURSUANT TO CHAPTER 29, ARTICLE 2 OF THIS TITLE.

J. IN DETERMINING WHETHER TO GRANT A CERTIFICATION UNDER THIS SECTION, THE DEPARTMENT OF ECONOMIC SECURITY SHALL CONSIDER ALL OF THE FOLLOWING:

1. THE NUMBER OF HOUSEHOLD MEMBERS, INCLUDING THE FOSTER PARENT'S NATURAL AND ADOPTED CHILDREN.

2. ANY SPECIAL NEEDS OR DEVELOPMENTAL DISABILITIES OF HOUSEHOLD MEMBERS.

3. ANY OTHER CONSIDERATION DETERMINED BY THE DEPARTMENT OF ECONOMIC SECURITY IN RULE THAT MAY IMPACT A FOSTER PARENT'S ABILITY TO PROVIDE CARE FOR A CHILD WITH A DEVELOPMENTAL DISABILITY.

K. IF THE FOSTER HOME DOES NOT MEET THE REQUIREMENTS FOR CERTIFICATION AS A CHILD DEVELOPMENTAL CERTIFIED HOME, THE HOME MAY REMAIN LICENSED AS A

REGULAR FOSTER HOME AND CONTINUE TO SERVE A FOSTER CHILD WITH A DEVELOPMENTAL DISABILITY WHO IS ALREADY PLACED IN THE HOME IF THE DEPARTMENT OF CHILD SAFETY DETERMINES IT IS IN THE BEST INTERESTS OF THE FOSTER CHILD.

L. IF THE FOSTER HOME DOES NOT MEET THE CERTIFICATION REQUIREMENTS UNDER THIS SECTION AND THE DEPARTMENT ASSESSES A FOSTER CHILD WITH A DEVELOPMENTAL DISABILITY WHO IS ELIGIBLE PURSUANT TO CHAPTER 29, ARTICLE 2 OF THIS TITLE AS NEEDING HOME AND COMMUNITY BASED SERVICES, THE FOSTER PARENT MAY WORK WITH THE DEPARTMENT TO COORDINATE THE PROVISION OF THE ASSESSED AND AUTHORIZED SERVICES.

M. A CERTIFICATION UNDER THIS SECTION EXPIRES ANNUALLY AND IS SUBJECT TO RENEWAL BY THE DEPARTMENT ON THE ANNUAL ANNIVERSARY DATE OF THE REGULAR FOSTER HOME LICENSE.

N. A DECISION BY THE DEPARTMENT TO DENY CERTIFICATION OF A REGULAR FOSTER HOME FOR A SPECIFIC FOSTER CHILD UNDER THIS SECTION IS NOT APPEALABLE.

O. THE DEPARTMENT MAY SUSPEND OR REVOKE A CERTIFICATION UNDER THIS SECTION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 6 FOR ANY ONE OR A COMBINATION OF THE REASONS SPECIFIED IN SECTION 36-594.

P. A DECISION OF THE DEPARTMENT OF CHILD SAFETY TO DENY, SUSPEND OR REVOKE THE UNDERLYING REGULAR FOSTER HOME LICENSE OF A CHILD DEVELOPMENTAL CERTIFIED HOME IS APPEALABLE PURSUANT TO SECTION 8-506. A DENIAL, SUSPENSION OR REVOCATION OF THE REGULAR FOSTER HOME LICENSE IS A DENIAL, SUSPENSION OR REVOCATION OF THE CERTIFICATION UNDER THIS SECTION.

Q. THE DEPARTMENT OF CHILD SAFETY AND THE DEPARTMENT OF ECONOMIC SECURITY SHALL ADOPT RULES TO IMPLEMENT THIS SECTION.

R. FOR THE PURPOSES OF THIS SECTION, "FOSTER CHILD", "FOSTER HOME", "FOSTER PARENT" AND "REGULAR FOSTER HOME" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 8-501.

Sec. 13. Section 36-594, Arizona Revised Statutes, is amended to read:

36-594. Denial, suspension or revocation of license

The department may deny, suspend or revoke a license pursuant to title 41, chapter 6, article 6 for any one or a combination of the following:

1. An applicant or licensee violates this chapter, rules adopted pursuant to this chapter, federal or state statutes or city or county ordinances or codes.

2. An applicant or licensee refuses to cooperate in obtaining or providing information the department deems necessary to determine if the department's standards have been met.

3. An employee, applicant, licensee or adult household member of an adult developmental home~~,~~ OR child developmental ~~foster~~ home ~~or secure facility~~ has been convicted of, has been found by a court to have committed or is reasonably believed to have committed a sex offense, a drug related offense, a theft related offense, a violence related offense, child abuse, child neglect, contributing to the delinquency of a minor or abuse or neglect of a vulnerable adult. For the purposes of this paragraph, "vulnerable adult" has the same meaning prescribed in section 13-3623.

4. An applicant or licensee materially misrepresents or wilfully fails to disclose information to the department relating to the applicant's or licensee's qualifications, experience or performance of responsibilities.

5. The department determines, using criteria established in statute or rule, that an applicant or licensee is unable or unwilling to meet the physical or emotional needs of clients.

Sec. 14. Section 36-594.02, Arizona Revised Statutes, is amended to read:

36-594.02. Fingerprinting of adult developmental home licensees and child developmental home licensees

A person who applies for a license for an adult developmental home or a child developmental ~~foster~~ home shall have a valid fingerprint clearance card issued pursuant to section 41-1758.07. The person shall certify on forms that are provided by the department whether the person is awaiting trial on or has been convicted of any of the offenses listed in section 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.

Sec. 15. Repeal

Section 36-595.03, Arizona Revised Statutes, is repealed.

Sec. 16. Section 36-2939, Arizona Revised Statutes, is amended to read:

36-2939. Long-term care system services

A. The following services shall be provided by the program contractors to members WHO ARE determined to need institutional services pursuant to this article:

1. Nursing facility services other than services in an institution for tuberculosis or mental disease.

2. Notwithstanding any other law, behavioral health services if these services are not duplicative of long-term care services provided as of January 30, 1993 under this subsection and are authorized by the program contractor through the long-term care case management system. If the administration is the program contractor, the administration may authorize these services.

3. Hospice services. For the purposes of this paragraph, "hospice" means a program of palliative and supportive care for terminally ill members and their families or caregivers.

4. Case management services as provided in section 36-2938.

5. Health and medical services as provided in section 36-2907.

B. In addition to the services prescribed in subsection A of this section, the department, as a program contractor, shall provide the following services if appropriate to members who have a developmental disability as defined in section 36-551 and are determined to need institutional services pursuant to this article:

1. Intermediate care facility services for a member who has a developmental disability as defined in section 36-551. For purposes of this

article, a facility shall meet all federally approved standards and may only include the Arizona training program facilities, a state owned and operated service center, state owned or operated community residential settings and private ~~state licensed~~ facilities that contract with the department.

2. Home and community based services that may be provided in a member's home, at an alternative residential setting as prescribed in section 36-591 or at other behavioral health alternative residential facilities licensed by the department of health services and approved by the director of the Arizona health care cost containment system administration and that may include:

(a) Home health, which means the provision of nursing services or home health aide services or medical supplies, equipment and appliances, that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

(b) Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

(c) Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

(d) Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

(e) Day care for persons with developmental disabilities, which means a service that provides planned care supervision and activities, personal care, activities of daily living skills training and habilitation services in a group setting during a portion of a continuous ~~twenty-four hour~~ TWENTY-FOUR-HOUR period.

(f) Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

(g) Respite care, which means a service that provides short-term care and supervision available on a ~~twenty-four hour~~ TWENTY-FOUR-HOUR basis.

(h) Transportation, which means a service that provides or assists in obtaining transportation for the member.

(i) Other services or licensed or certified settings approved by the director.

C. In addition to services prescribed in subsection A of this section, home and community based services may be provided in a member's home, in an

adult foster care home as prescribed in section 36-401, in an assisted living home or assisted living center as defined in section 36-401 or in a level one or level two behavioral health alternative residential facility approved by the director by program contractors to all members who do not have a developmental disability as defined in section 36-551 and are determined to need institutional services pursuant to this article. Members residing in an assisted living center must be provided the choice of single occupancy. The director may also approve other licensed residential facilities as appropriate on a ~~case by case~~ CASE-BY-CASE basis for traumatic brain injured members. Home and community based services may include the following:

1. Home health, which means the provision of nursing services, home health aide services or medical supplies, equipment and appliances, that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on a physician's orders and in accordance with federal law. Physical therapy, occupational therapy, or speech and audiology services provided by a home health agency may be provided in accordance with federal law. Home health agencies shall comply with federal bonding requirements in a manner prescribed by the administration.

2. Home health aide, which means a service that provides intermittent health maintenance, continued treatment or monitoring of a health condition and supportive care for activities of daily living provided within a member's residence.

3. Homemaker, which means a service that provides assistance in the performance of activities related to household maintenance within a member's residence.

4. Personal care, which means a service that provides assistance to meet essential physical needs within a member's residence.

5. Adult day health, which means a service that provides planned care supervision and activities, personal care, personal living skills training, meals and health monitoring in a group setting during a portion of a continuous ~~twenty-four hour~~ TWENTY-FOUR-HOUR period. Adult day health may also include preventive, therapeutic and restorative health related services that do not include behavioral health services.

6. Habilitation, which means the provision of physical therapy, occupational therapy, speech or audiology services or training in independent living, special developmental skills, sensory-motor development, behavior intervention, and orientation and mobility in accordance with federal law.

7. Respite care, which means a service that provides short-term care and supervision available on a ~~twenty-four hour~~ TWENTY-FOUR-HOUR basis.

8. Transportation, which means a service that provides or assists in obtaining transportation for the member.

9. Home delivered meals, which means a service that provides for a nutritious meal ~~containing~~ THAT CONTAINS at least one-third of the

recommended dietary allowance for an individual and ~~which~~ THAT is delivered to the member's residence.

10. Other services or licensed or certified settings approved by the director.

D. The amount of money expended by program contractors on home and community based services pursuant to subsection C of this section shall be limited by the director in accordance with the federal monies made available to this state for home and community based services pursuant to subsection C of this section. The director shall establish methods for the allocation of monies for home and community based services to program contractors and shall monitor expenditures on home and community based services by program contractors.

E. Notwithstanding subsections A, B, C and F of this section, no service may be provided that does not qualify for federal monies available under title XIX of the social security act or the section 1115 waiver.

F. In addition to services provided pursuant to subsections A, B and C of this section, the director may implement a demonstration project to provide home and community based services to special populations, including persons with disabilities who are eighteen years of age or younger, ARE medically fragile, reside at home and would be eligible for supplemental security income for the aged, blind or disabled or the state supplemental payment program, except for the amount of their parent's income or resources. In implementing this project, the director may provide for parental contributions for the care of their child.

G. Subject to section 36-562, the administration by rule shall prescribe a deductible schedule for programs provided to members who are eligible pursuant to subsection B of this section, except that the administration shall implement a deductible based on family income. In determining deductible amounts and whether a family is required to have deductibles, the department shall use adjusted gross income. Families whose adjusted gross income is at least four hundred ~~per cent~~ PERCENT and less than or equal to five hundred ~~per cent~~ PERCENT of the federal poverty guidelines shall have a deductible of two ~~per cent~~ PERCENT of adjusted gross income. Families whose adjusted gross income is more than five hundred ~~per cent~~ PERCENT of adjusted gross income shall have a deductible of four ~~per cent~~ PERCENT of adjusted gross income. Only families whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section may be required to have a deductible for services. For the purposes of this subsection, "deductible" means an amount a family, whose children are under eighteen years of age and who are members who are eligible pursuant to subsection B of this section, pays for services, other than departmental case management and acute care services, before the department will pay for services other than departmental case management and acute care services.

Sec. 17. Section 41-1037, Arizona Revised Statutes, is amended to read:

41-1037. General permits; issuance of traditional permit

A. If an agency proposes a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit if the facilities, activities or practices in the class are substantially similar in nature unless any of the following applies:

1. A general permit is prohibited by federal law.

2. The issuance of an alternative type of permit, license or authorization is specifically authorized by state statute.

3. The issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements.

4. The issuance of a general permit would result in additional regulatory requirements or costs being placed on the permit applicant.

5. The permit, license or authorization is issued pursuant to section 8-126, 8-503, 8-505, 23-504, 36-592, 36-594.01, 36-595, ~~36-595.03,~~ 36-596, 36-596.54, 41-1967.01 or 46-807.

6. The permit, license or authorization is issued pursuant to title V of the clean air act.

B. The agency retains the authority to revoke an applicant's ability to operate under a general permit and to require the applicant to obtain a traditional permit if the applicant is in substantial noncompliance with the applicable requirements for the general permit.

Sec. 18. Rulemaking exemption

For the purposes of this act, the department of economic security and the department of child safety are exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for eighteen months after the effective date of this act. The departments shall jointly solicit public comment on the proposed rules.

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2016.

Passed the House February 9, 20 16

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

☐ Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate March 24, 20 16

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Allen

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____ day of

_____

at _____ o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2099

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 6, 2016,

by the following vote: 55 Ayes,

1 Nays, 4 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7 day of May, 2016,

at 1:18 o'clock A M.

Valerie Hunna
Secretary to the Governor

Approved this 17th day of

May, 2016,

at 1:00 o'clock P. M.

Doug Ducey
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17th day of May, 2016,

at 4:35 o'clock P M.

Michele Reagan
Secretary of State

H.B. 2099