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Conference Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

# HOUSE BILL 2400

AN ACT

AMENDING TITLE 8, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-514.05; AMENDING SECTIONS 36-557, 36-559 AND 36-562, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-568.02; RELATING TO DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 8, chapter 5, article 1, Arizona Revised Statutes, is  
3 amended by adding section 8-514.05, to read:

4 8-514.05. Foster care provider access to child health  
5 information; consent to treatment

6 A. IF A HEALTH PLAN, A HEALTH CARE PROVIDER LICENSED OR CERTIFIED  
7 PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT OR A HEALTH CARE  
8 INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4 HAS PROVIDED OR IS  
9 PROVIDING SERVICES TO A CHILD PLACED IN OUT-OF-HOME PLACEMENT AND HAS CUSTODY  
10 OR CONTROL OF THAT CHILD'S MEDICAL OR BEHAVIORAL HEALTH RECORDS, THE PLAN,  
11 PROVIDER OR INSTITUTION MUST PROVIDE THE FOLLOWING TO THE CHILD'S FOSTER  
12 PARENT, GROUP HOME STAFF, FOSTER HOME STAFF, RELATIVE OR OTHER PERSON OR  
13 AGENCY IN WHOSE CARE THE CHILD IS CURRENTLY PLACED PURSUANT TO THIS ARTICLE  
14 OR ARTICLE 4 OF THIS CHAPTER:

- 15 1. MEDICAL RECORDS.
- 16 2. BEHAVIORAL HEALTH RECORDS.
- 17 3. INFORMATION RELATING TO THE CHILD'S CONDITION AND TREATMENT.
- 18 4. THE CHILD'S PRESCRIPTION AND NONPRESCRIPTION DRUGS, MEDICATIONS,  
19 DURABLE MEDICAL EQUIPMENT, DEVICES AND RELATED INFORMATION.

20 B. IF A HEALTH PLAN, A HEALTH CARE PROVIDER LICENSED OR CERTIFIED  
21 PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT OR A HEALTH CARE  
22 INSTITUTION LICENSED PURSUANT TO TITLE 36, CHAPTER 4 HAS PROVIDED OR IS  
23 PROVIDING SERVICES TO A CHILD FOR WHOM THE DEPARTMENT IS THE LEGAL GUARDIAN  
24 OR IS PROVIDING FOSTER CARE OR SUBSTANCE ABUSE SERVICES AND HAS CUSTODY OR  
25 CONTROL OF THAT CHILD'S MEDICAL OR BEHAVIORAL HEALTH RECORDS, THE PLAN,  
26 PROVIDER OR INSTITUTION MUST PROVIDE THE FOLLOWING TO THE DEPARTMENT'S  
27 EMPLOYEES WHO ARE INVOLVED IN THE CHILD'S CASE MANAGEMENT:

- 28 1. MEDICAL RECORDS.
- 29 2. BEHAVIORAL HEALTH RECORDS.
- 30 3. INFORMATION RELATING TO THE CHILD'S CONDITION AND TREATMENT.
- 31 4. THE CHILD'S PRESCRIPTION AND NONPRESCRIPTION DRUGS, MEDICATIONS,  
32 DURABLE MEDICAL EQUIPMENT, DEVICES AND RELATED INFORMATION.

33 C. THE FOSTER PARENT, GROUP HOME STAFF, FOSTER HOME STAFF, RELATIVE OR  
34 OTHER PERSON OR AGENCY IN WHOSE CARE THE CHILD IS CURRENTLY PLACED PURSUANT  
35 TO THIS ARTICLE OR ARTICLE 4 OF THIS CHAPTER:

- 36 1. MAY GIVE CONSENT FOR THE FOLLOWING:
  - 37 (a) EVALUATION AND TREATMENT FOR EMERGENCY CONDITIONS THAT ARE NOT  
38 LIFE THREATENING.
  - 39 (b) ROUTINE MEDICAL AND DENTAL TREATMENT AND PROCEDURES, INCLUDING  
40 EARLY PERIODIC SCREENING DIAGNOSIS AND TREATMENT SERVICES, AND SERVICES BY  
41 HEALTH CARE PROVIDERS TO RELIEVE PAIN OR TREAT SYMPTOMS OF COMMON CHILDHOOD  
42 ILLNESSES OR CONDITIONS.

- 43 2. SHALL NOT CONSENT TO:
  - 44 (a) GENERAL ANESTHESIA.

- 1 (b) SURGERY.
- 2 (c) TESTING FOR THE PRESENCE OF THE HUMAN IMMUNODEFICIENCY VIRUS.
- 3 (d) BLOOD TRANSFUSIONS.
- 4 (e) ABORTIONS.

5 Sec. 2. Section 36-557, Arizona Revised Statutes, is amended to read:  
6 36-557. Purchase of community developmental disabilities  
7 services; application; contracts; limitation

8 A. The department may use state and federal ~~funds~~ MONIES appropriated  
9 or otherwise available to it for this purpose to assist in the establishment  
10 and maintenance of local developmental disability services by public or  
11 private nonprofit or profit agencies. The ~~funds~~ MONIES may be expended as  
12 professional fees for service, in contracts for advancement or reimbursement  
13 or in another appropriate manner and may be used for any purpose necessary to  
14 the provision of local developmental disability services. ~~They may~~ THE  
15 DEPARTMENT SHALL not ~~be used~~ USE THESE MONIES for departmental salaries, care  
16 of developmentally disabled persons by the department or any other purpose  
17 within the department itself,— but ~~they may be used~~ USE THE MONIES for  
18 consultation to the department in the interest of local programs.

19 B. AN INDIVIDUAL PROVIDER OR A local public or private nonprofit or  
20 profit agency providing or intending to provide community developmental  
21 disability services and desiring to contract with the department ~~for the~~  
22 ~~furnishing of such~~ TO PROVIDE THESE services shall submit a program plan and  
23 budget to the department on the forms and in the manner required by the  
24 department. If the program meets departmental standards and is consistent  
25 with the state plan of the department and the individualized service program  
26 plan of the client, the department, notwithstanding the provisions of title  
27 41, chapter 23, relating to procurement and including services pursuant to  
28 section 36-2943, may contract with that INDIVIDUAL PROVIDER OR agency for  
29 ~~such~~ THE REQUIRED services ~~as are required~~ and ~~upon such~~ ON terms ~~and~~  
30 ~~conditions as~~ the department ~~shall require~~ REQUIRES. The contracts shall  
31 provide that the provider of services ~~shall be~~ IS subject to a continuing  
32 program evaluation by the department through progress reports, expenditure  
33 reports, program audits or other appropriate evaluation techniques and to  
34 ~~assure~~ ENSURE that the provider of service is in continued compliance with  
35 the terms of the contract and the department's community developmental  
36 disability service standards and requirements.

37 C. Contracts between the department and a school district or districts  
38 ~~shall be~~ ARE subject to approval by the department of education.

39 D. This article does not make the department or the state responsible  
40 for funding programs beyond the limits of legislative appropriation for the  
41 programs. This article does not require a provider of services to provide  
42 unreimbursed services to the department or its clients.

43 E. Contracts to provide community developmental disability services  
44 shall require that:

1           1. The contractor ~~is obligated to~~ MUST operate a program or service in  
2 strict accordance with the standards adopted for ~~such~~ THAT program or service  
3 by the department.

4           2. If state funding is provided for a particular program the  
5 contractor, to the extent of positions available ~~which~~ THAT are being  
6 purchased by the department, shall provide services to a developmentally  
7 disabled client who has been evaluated and placed by the department.

8           3. All contractors must carry liability insurance in amounts approved  
9 by the risk management section of the department of administration and file  
10 proof of ~~such~~ insurance with the risk management section. The director may  
11 waive ~~such~~ THIS requirement on a case by case basis ~~upon~~ ON a finding that  
12 insurance for ~~such~~ THE program or service is not practicably available at  
13 affordable rates and that it is necessary that the program or service be  
14 provided by the contractor.

15           4. All clients enrolled in programs ~~shall~~ have all the same specified  
16 rights as they would have if enrolled in a program operated directly by the  
17 state.

18           5. Except for emergency placement pursuant to section 36-560,  
19 subsection N, payment shall not be made based on program services provided to  
20 a client if a placement evaluation has not been made, and no individual  
21 program has been prepared and when, ~~upon~~ ON such placement evaluation, no  
22 recommendation has been made to enroll the client in the particular program  
23 service.

24 ~~This article does not require a contracted agency to provide unreimbursed~~  
25 ~~services to the department or a client of the department.~~

26           F. Contracts for the purchase of residential care services other than  
27 those community residential settings licensed pursuant to this chapter ~~shall~~,  
28 in addition to other general requirements applicable to purchase of care  
29 contractors, SHALL:

30           1. Provide for mandatory inspection by the department every two years  
31 for facilities other than group homes.

32           2. Provide for mandatory monitoring by the department for health,  
33 safety, contractual and programmatic standards at least every ~~six~~ TWELVE  
34 months BY UNANNOUNCED VISITS.

35           3. Provide for mandatory investigation by the department in response  
36 to complaints within ten working days, except that in those instances ~~which~~  
37 THAT pose a danger to the client, the department shall conduct the  
38 investigation immediately. Health and safety complaints related to group  
39 homes shall be referred to the department of health services on receipt. The  
40 department of health services shall share all incident reports related to  
41 health and safety with the division of developmental disabilities.

42           4. Except for group homes licensed by the department of health  
43 services, specify the health and safety and sanitation codes and other codes  
44 or standards applicable to the facility or to the operation of the facility  
45 by the contractor other than group homes.

1           5. Provide for mandatory periodic reports to be filed by the provider  
2 contractor with the department with respect to the operation of the facility.

3           6. Provide that the facility and the books and records of the facility  
4 and of the provider are subject to inspection at any time by employees of the  
5 department or designees of the department.

6           7. Provide that parents and guardians of developmentally disabled  
7 persons residing at the facility, members of the developmental disabilities  
8 advisory council, ~~and~~ and members of other recognized and ongoing advocacy  
9 groups for developmentally disabled persons may inspect the facility at  
10 reasonable times.

11           G. Contracts for purchase of residential care services shall require a  
12 community residential setting, as defined in section 36-551, to be licensed  
13 pursuant to this chapter other than group homes licensed by the department of  
14 health services.

15           H. ~~CONTRACTS FOR DAY OR WORK PROGRAMS SHALL BE MONITORED ANNUALLY BY~~  
16 ~~DEPARTMENT STAFF OR VOLUNTARY ACCREDITING BODIES. THE DIVISION MAY WAIVE THE~~  
17 ~~REQUIREMENT FOR AN ANNUAL MONITOR IF THE CONTRACTING AGENCY PROVIDES THE~~  
18 ~~DIVISION WITH EVIDENCE OF ACCREDITATION IN GOOD STANDING.~~

19           I. ~~THE DIVISION SHALL ADOPT RULES THAT PRESCRIBE THE QUALIFICATIONS~~  
20 ~~FOR ACCREDITATION BODIES AND GOOD STANDING STATUS.~~

21           ~~H.~~ J. The division shall ensure that all contracted developmental  
22 disabilities service providers rendering services pursuant to this chapter  
23 are reimbursed in accordance with title XIX of the social security act.

24           ~~I.~~ K. Any contract issued by the division shall include language  
25 outlining the provisions for the grievance and appeal procedure. The  
26 grievance process applicable to these contracts shall comply with title XIX  
27 of the social security act as implemented by department rules and section  
28 36-563.

29           ~~J.~~ L. As a condition of contracts with any developmental disabilities  
30 service provider, the director shall require terms that conform with state  
31 and federal laws, title XIX statutes and regulations and quality  
32 standards. The director shall further require contract terms that ensure  
33 performance by the provider of the provisions of each contract executed  
34 pursuant to this article.

35           ~~K.~~ M. The division may establish a rate structure that ensures an  
36 equitable funding basis for private nonprofit or for profit agencies for  
37 services pursuant to subsection B of this section and section 36-2943. In  
38 each fiscal year, the division shall review and may adjust the rate structure  
39 based on the provisions of section 36-2959.

40           ~~L.~~ N. The division shall disclose to a service provider in the  
41 individual program plan defined by section 36-551 any historical and  
42 behavioral information necessary for the provider to be able to anticipate  
43 the client's future behaviors and needs.



1           2. The person is eligible for services pursuant to this chapter and  
2 would receive services, other than case management, if state funding were  
3 available.

4           ~~C.~~ D. A person who is referred to the Arizona health care cost  
5 containment system administration shall first be determined eligible or  
6 ineligible for the Arizona long-term care system, pursuant to chapter 29,  
7 article 2 of this title, before receiving services pursuant to this  
8 chapter. Applicants who voluntarily refuse to cooperate in the eligibility  
9 process are not eligible for services pursuant to this chapter. **THE**  
10 **APPLICANT SHALL SIGN** a form explaining loss of benefits due to a voluntary  
11 refusal to cooperate ~~shall be signed by the applicant~~. Voluntary refusal to  
12 cooperate shall not be construed to mean the ~~applicant's inability~~ **APPLICANT**  
13 **IS UNABLE** to obtain documentation required for eligibility determination.

14           ~~D.~~ E. ~~The department shall determine eligibility.~~ If the person is  
15 not eligible **FOR DEVELOPMENTAL DISABILITIES PROGRAMS, SERVICES OR FACILITIES**,  
16 the department of economic security shall refer the person to the department  
17 of health services for treatment as directed by the court to coordinate  
18 necessary and reasonable services. Services provided pursuant to this  
19 subsection are subject to the availability of funding.

20           Sec. 4. Section 36-562, Arizona Revised Statutes, is amended to read:

21           36-562. Schedule of financial contribution; review of billings

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

30           ~~B. The financial contribution by the parent of a developmentally~~  
31 ~~disabled minor shall terminate upon the eighteenth birthday of such person.~~  
32 ~~The financial contribution by parents on behalf of two or more~~  
33 ~~developmentally disabled persons receiving developmental disabilities~~  
34 ~~programs or services shall not exceed the maximum amount such parents would~~  
35 ~~be required to pay if only one of such children were receiving the programs~~  
36 ~~or services.~~

37           ~~C.~~ A. The department shall by rule **SHALL** prescribe a fee schedule for  
38 developmental disability residential programs **AND SERVICES** provided directly  
39 or indirectly by the department. The amount of annual liability of a  
40 developmentally disabled person or **his THAT PERSON'S** estate or parent ~~for~~  
41 ~~residential programs provided~~ shall be based on the percentage of gross  
42 income of the developmentally disabled person, **his THAT PERSON'S** estate or  
43 parent, as defined by section 61 of the United States internal revenue code,  
44 except that part of the gross income of a self-employed person ~~which~~ **THAT**  
45 results from the operation of **his THAT PERSON'S** business shall be adjusted by

1 the deductions allowed in the internal revenue code relating to ~~such~~ THAT  
2 income in computing adjusted gross income. FOR A PERSON IN A RESIDENTIAL  
3 PROGRAM, ALL OF THE FOLLOWING APPLY:

4 ~~D. The director shall review his order for payment for residential~~  
5 ~~care at least annually, and shall require the responsible person to update~~  
6 ~~the financial information provided annually or at any time upon request by~~  
7 ~~the county board of supervisors or by the parent, guardian, or other person~~  
8 ~~making such payments. The provisions of section 36-563 shall apply to any~~  
9 ~~order or change in order for payment.~~

10 ~~E. The responsible person shall furnish current financial information~~  
11 ~~to the director and to the appropriate county board of supervisors at the~~  
12 ~~times and on the forms and in the manner prescribed by the director, provided~~  
13 ~~that such information shall be held by the director and the county board of~~  
14 ~~supervisors to be strictly confidential and it shall not be divulged except~~  
15 ~~in the instance where it is necessary in connection with legal action.~~

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

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

31 1. A FINANCIAL CONTRIBUTION SHALL NOT EXCEED THE ACTUAL COST OF THE  
32 PROGRAMS AND SERVICES PROVIDED.

33 2. THE FINANCIAL CONTRIBUTION BY THE PARENT OF A DEVELOPMENTALLY  
34 DISABLED MINOR SHALL TERMINATE ON THAT PERSON'S EIGHTEENTH BIRTHDAY.

35 3. THE FINANCIAL CONTRIBUTION BY A PARENT ON BEHALF OF TWO OR MORE  
36 DEVELOPMENTALLY DISABLED MINORS RECEIVING DEVELOPMENTAL DISABILITIES PROGRAMS  
37 OR SERVICES SHALL NOT EXCEED THE MAXIMUM AMOUNT THE PARENT WOULD BE REQUIRED  
38 TO PAY IF ONLY ONE OF THE MINORS WERE RECEIVING THE PROGRAMS OR SERVICES.

39 B. EXCEPT FOR CHILDREN PLACED IN SPECIAL FOSTER HOMES AS DESCRIBED IN  
40 SECTION 36-558.01 PURSUANT TO SECTIONS 8-242, 8-514.01 AND 8-845, THE PERSON  
41 OR THE PERSON'S PARENT OR ESTATE SHALL PAY THE DEPARTMENT FOR THE SUPPORT OF  
42 A DEVELOPMENTALLY DISABLED PERSON WHO IS IN A RESIDENTIAL PROGRAM OPERATED OR  
43 SUPPORTED BY THE DEPARTMENT, UNTIL THE PERSON IS TERMINATED FROM THE  
44 RESIDENTIAL PROGRAM. THE DEPARTMENT SHALL GIVE CREDIT FOR ANY PERIODS OF  
45 TEMPORARY ABSENCE FOR HOME VISITS, VACATIONS OR OTHER PURPOSES.

1 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE DEPARTMENT MAY  
2 REQUIRE A PERSON WHO IS RECEIVING A RESIDENTIAL PROGRAM AND WHO RECEIVES  
3 INCOME OR BENEFITS TO CONTRIBUTE TO THE COST OF THE PERSON'S SUPPORT AND  
4 MAINTENANCE, SUBJECT TO THE PROVISIONS OF FEDERAL LAWS AND REGULATIONS. THE  
5 DEPARTMENT SHALL ADOPT RULES TO DETERMINE THE AMOUNT AND MEANS OF PAYMENT OF  
6 THE CONTRIBUTIONS, EXCEPT THAT THE COMBINED CONTRIBUTION MADE ON BEHALF OF A  
7 PERSON BY THE PERSON OR THE PERSON'S PARENT OR ESTATE SHALL NOT EXCEED THE  
8 ACTUAL COST OF THE RESIDENTIAL PROGRAMS PROVIDED. A MINIMUM OF THIRTY PER  
9 CENT OF THE PERSON'S INCOME OR BENEFITS SHALL BE RETAINED FOR THE PERSON'S  
10 PERSONAL USE.

11 D. THE DEPARTMENT SHALL BILL A PERSON WHO IS AT LEAST EIGHTEEN YEARS  
12 OF AGE OR THE PERSON'S ESTATE FOR ONE HUNDRED PER CENT OF DEVELOPMENTAL  
13 DISABILITIES PROGRAMS IF THE PERSON'S COUNTABLE INCOME AND RESOURCES EXCEED  
14 THE INCOME AND RESOURCE LIMITS PRESCRIBED IN SECTION 36-2934. FOR THE  
15 PURPOSES OF THIS SUBSECTION, ASSETS OF A PERSON ENROLLED IN THE ARIZONA  
16 LONG-TERM CARE SYSTEM THAT ARE HELD IN TRUST PURSUANT TO SECTION 36-2934.01  
17 ARE NOT COUNTABLE INCOME OR RESOURCES.

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

21 E. THE DIRECTOR SHALL REVIEW THE AMOUNT BILLED FOR EACH PERSON  
22 RECEIVING DEVELOPMENTAL DISABILITIES PROGRAMS AND SERVICES AT LEAST ANNUALLY  
23 AND SHALL REQUIRE THE RESPONSIBLE PERSON TO UPDATE THE FINANCIAL INFORMATION  
24 PROVIDED ANNUALLY OR AT ANY TIME ON REQUEST BY THE PARENT, GUARDIAN OR OTHER  
25 PERSON MAKING THE PAYMENTS. SECTION 36-563 APPLIES TO ANY BILLING OR CHANGE  
26 IN BILLING.

27 F. THE RESPONSIBLE PERSON SHALL FURNISH CURRENT FINANCIAL INFORMATION  
28 TO THE DIRECTOR AT THE TIMES, ON THE FORMS AND IN THE MANNER PRESCRIBED BY  
29 THE DIRECTOR.

30 ~~I.~~ G. The department shall provide monthly billings to all persons  
31 responsible for paying for ~~developmentally disabled residential or~~  
32 ~~nonresidential~~ DEVELOPMENTAL DISABILITIES services and programs provided  
33 directly or indirectly by the department. ~~The department shall require all~~  
34 ~~purchase of care providers to provide current lists of all persons receiving~~  
35 ~~residential or nonresidential services and programs in facilities operated by~~  
36 ~~such providers.~~ The department shall forward reports of delinquent billings  
37 for ~~residential and nonresidential~~ services and programs provided by the  
38 department or by contractors to the attorney general for collection.

39 ~~J.~~ H. The department shall notify each ~~client~~ PERSON and the PERSON'S  
40 parent or guardian ~~of such client~~ for whom ~~it has determined that~~  
41 contributions are required ~~for the cost of residential or nonresidential~~  
42 ~~services and programs~~ that it ~~reserves the right to~~ MAY terminate  
43 developmental disability ~~residential or nonresidential~~ services and programs  
44 to a ~~client~~ PERSON for nonpayment of ~~fees~~ CONTRIBUTIONS required to be paid  
45 pursuant to this section.

1           ~~K. I. Any person affected by an order of the director for payment of~~  
2 ~~costs of care may contest such order and request an administrative hearing~~  
3 ~~pursuant to section 36-563.~~ Any person liable for the costs of ~~care of a~~  
4 ~~client~~ PROGRAMS OR SERVICES FOR A DEVELOPMENTALLY DISABLED PERSON may appeal  
5 to the director, pursuant to section 36-563, for a reduction in the amount of  
6 payment ~~for such costs of care~~ on the basis of hardship. A PERSON RECEIVING  
7 A BILLING MAY CONTEST THE BILLING AND REQUEST AN ADMINISTRATIVE HEARING  
8 PURSUANT TO SECTION 36-563.

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

21           Sec. 5. Title 36, chapter 5.1, article 1, Arizona Revised Statutes, is  
22 amended by adding section 36-568.02, to read:

23           36-568.02. Confidentiality of health information

24           A. IF A HEALTH PLAN, A HEALTH CARE PROVIDER LICENSED OR CERTIFIED  
25 PURSUANT TO TITLE 32 OR TITLE XIX OF THE SOCIAL SECURITY ACT OR A HEALTH CARE  
26 INSTITUTION LICENSED PURSUANT TO CHAPTER 4 OF THIS TITLE HAS PROVIDED OR IS  
27 PROVIDING SERVICES TO A PERSON AND HAS CUSTODY OR CONTROL OF THAT PERSON'S  
28 MEDICAL OR BEHAVIORAL HEALTH RECORDS, THE PLAN, PROVIDER OR INSTITUTION MUST  
29 PROVIDE THE FOLLOWING TO THAT PERSON'S SERVICE PROVIDER, RELATIVE OR OTHER  
30 PERSON OR AGENCY IN WHOSE CARE THE PERSON RECEIVING SERVICES IS CURRENTLY  
31 PLACED AND TO THE DEPARTMENT'S EMPLOYEES WHO ARE INVOLVED IN THAT PERSON'S  
32 CASE MANAGEMENT:

- 33           1. MEDICAL RECORDS.
- 34           2. BEHAVIORAL HEALTH RECORDS.
- 35           3. INFORMATION RELATING TO THE PERSON'S CONDITION AND TREATMENT.
- 36           4. THE PERSON'S PRESCRIPTION AND NONPRESCRIPTION DRUGS, MEDICATIONS,  
37 DURABLE MEDICAL EQUIPMENT, DEVICES AND RELATED INFORMATION.

38           B. NOTWITHSTANDING SUBSECTION A, A COMPETENT ADULT OR EMANCIPATED  
39 MINOR MAY RESTRICT THE RELEASE OF THE ADULT'S OR THE MINOR'S MEDICAL OR  
40 BEHAVIORAL HEALTH RECORDS, OR BOTH, AND INFORMATION THAT IS OTHERWISE  
41 ALLOWABLE UNDER STATE AND FEDERAL LAW.

1           Sec. 6. Retroactivity

2           Sections 1 and 5 of this act are effective retroactively from and after  
3 April 14, 2003.

4           Sec. 7. Exemption from rule making

5           For the purposes of sections 3 and 4 of this act, the department of  
6 economic security is exempt from the rule making requirements of title 41,  
7 chapter 6, Arizona Revised Statutes, for one year after the effective date of  
8 this act.