

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

# HOUSE BILL 2099

AN ACT

AMENDING SECTIONS 8-503, 8-514.01, 36-401, 36-551, 36-554, 36-558, 36-558.01, 36-591, 36-592, 36-593, 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)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 8-503, Arizona Revised Statutes, is amended to  
3 read:  
4 8-503. Powers and duties  
5 A. The division shall:  
6 1. Exercise supervision over all child welfare agencies.  
7 2. Advise and cooperate with the governing boards of all child welfare  
8 agencies.  
9 3. Assist the staffs of all child welfare agencies by giving advice on  
10 progressive methods and procedures of child care and improvement of services.  
11 4. Establish rules, regulations, ~~and~~ and standards for:  
12 (a) Licensing of child welfare agencies.  
13 (b) Licensing of foster homes.  
14 (c) Classifications of foster homes as:  
15 (i) Receiving foster homes.  
16 (ii) Regular foster homes.  
17 (iii) Special classes of foster homes as are needed according to the  
18 types of problems involved.  
19 (iv) Group foster homes.  
20 (d) Certifying each foster home according to one or more of the  
21 categories prescribed in subdivision (c) of this paragraph.  
22 (e) Initial and ongoing foster parent training programs.  
23 (f) The method of approving foster parent training programs.  
24 (g) Uniform amounts of payment for all foster homes according to  
25 certification. However, variations in uniform amounts of payments may be  
26 allowed for foster homes based on consideration of geographical location or  
27 age or mental or physical condition of a foster child.  
28 (h) Renewal of licenses of child welfare agencies and foster homes.  
29 (i) Form and content of investigations, reports and studies concerning  
30 disposition of children and foster home placement.  
31 5. Establish a program of counseling and rehabilitation of parents  
32 whose children have been placed in foster homes.  
33 6. Establish foster parent training programs or contract with other  
34 agencies, institutions or groups for the provision of such programs to foster  
35 parents. Foster parent training programs shall be established in at least  
36 the following areas:  
37 (a) Initial and ongoing training as a foster parent for a regular or  
38 group foster home.  
39 (b) Initial and ongoing training as a foster parent for a special  
40 foster home.  
41 7. Regulate the importation and exportation of children.  
42 8. In conjunction with the department of education and the department  
43 of juvenile corrections, develop and implement a uniform budget format to be  
44 submitted by licensed child welfare agencies. The budget format shall be

1 developed in such a manner that, at a minimum, residential and educational  
2 instructional costs are separate and distinct budgetary items.

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

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

17 Sec. 2. Section 8-514.01, Arizona Revised Statutes, is amended to  
18 read:

19 8-514.01. Placement of children with developmental disabilities

20 All foster placements of children with developmental disabilities made  
21 by the division shall be made to child developmental ~~foster~~ homes for  
22 children with developmental disabilities ~~THAT ARE~~ operated or licensed by the  
23 department of economic security pursuant to title 36, chapter 5.1, article 3  
24 ~~AND~~ that provide specialized programs for children with developmental  
25 disabilities, except that placements of children with developmental  
26 disabilities to ~~other types of~~ foster homes licensed pursuant to this article  
27 may be made, ~~if~~ if the division determines that such placement is in the best  
28 interests of the child.

29 Sec. 3. Section 36-401, Arizona Revised Statutes, is amended to read:

30 36-401. Definitions; adult foster care

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

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

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

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

41 4. "Adult day health services" means a program that provides planned  
42 care supervision and activities, personal care, personal living skills  
43 training, meals and health monitoring in a group setting during a portion of  
44 a continuous twenty-four-hour period. Adult day health services may also

1 include preventive, therapeutic and restorative health-related services that  
2 do not include behavioral health services.

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

10 6. "Adult foster care services" means supervision, assistance with  
11 eating, bathing, toileting, dressing, self-medication and other routines of  
12 daily living or services authorized by rules adopted pursuant to section  
13 36-405 and section 36-2939, subsection C.

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

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

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

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

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

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

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

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

33 13. "Controlling person" means a person who:

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

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

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

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

- 1           14. "Department" means the department of health services.
- 2           15. "Directed care services" means programs and services, including
- 3 supervisory and personal care services, that are provided to persons who are
- 4 incapable of recognizing danger, summoning assistance, expressing need or
- 5 making basic care decisions.
- 6           16. "Direction" means authoritative policy or procedural guidance for
- 7 the accomplishment of a function or activity.
- 8           17. "Director" means the director of the department of health services.
- 9           18. "Facilities" means buildings that are used by a health care
- 10 institution for providing any of the types of services as defined in this
- 11 chapter.
- 12           19. "Freestanding urgent care center":
- 13           (a) Means an outpatient treatment center that, regardless of its
- 14 posted or advertised name, meets any of the following requirements:
- 15           (i) Is open twenty-four hours a day, excluding at its option weekends
- 16 or certain holidays, but is not licensed as a hospital.
- 17           (ii) Claims to provide unscheduled medical services not otherwise
- 18 routinely available in primary care physician offices.
- 19           (iii) By its posted or advertised name, gives the impression to the
- 20 public that it provides medical care for urgent, immediate or emergency
- 21 conditions.
- 22           (iv) Routinely provides ongoing unscheduled medical services for more
- 23 than eight consecutive hours for an individual patient.
- 24           (b) Does not include the following:
- 25           (i) A medical facility that is licensed under a hospital's license and
- 26 that uses the hospital's medical provider number.
- 27           (ii) A qualifying community health center pursuant to section
- 28 36-2907.06.
- 29           (iii) Any other health care institution licensed pursuant to this
- 30 chapter.
- 31           (iv) A physician's office that offers extended hours or ~~same-day~~
- 32 **SAME-DAY** appointments to existing and new patients and that does not meet the
- 33 requirements of subdivision (a), item (i), (iii) or (iv) of this paragraph.
- 34           20. "Governing authority" means the individual, agency, partners, group
- 35 or corporation, appointed, elected or otherwise designated, in which the
- 36 ultimate responsibility and authority for the conduct of the health care
- 37 institution are vested.
- 38           21. "Health care institution" means every place, institution, building
- 39 or agency, whether organized for profit or not, that provides facilities with
- 40 medical services, nursing services, behavioral health services, health
- 41 screening services, other health-related services, supervisory care services,
- 42 personal care services or directed care services and includes home health
- 43 agencies as defined in section 36-151, outdoor behavioral health care
- 44 programs and hospice service agencies. **HEALTH CARE INSTITUTION DOES NOT**
- 45 **INCLUDE A COMMUNITY RESIDENTIAL SETTING AS DEFINED IN SECTION 36-551.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12           (c) Outdoor youth programs licensed by the department of economic  
13 security.

14           36. "Personal care services" means assistance with activities of daily  
15 living that can be performed by persons without professional skills or  
16 professional training and includes the coordination or provision of  
17 intermittent nursing services and the administration of medications and  
18 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as  
19 otherwise provided by law.

20           37. "Physician" means any person who is licensed pursuant to title 32,  
21 chapter 13 or 17.

22           38. "Residential care institution" means a health care institution  
23 other than a hospital or a nursing care institution that provides resident  
24 beds or residential units, supervisory care services, personal care services,  
25 behavioral health services, directed care services or health-related services  
26 for persons who do not need continuous nursing services.

27           39. "Residential unit" means a private apartment, unless otherwise  
28 requested by a resident, that includes a living and sleeping space, kitchen  
29 area, private bathroom and storage area.

30           40. "Respite care services" means services that are provided by a  
31 licensed health care institution to persons otherwise cared for in foster  
32 homes and in private homes to provide an interval of rest or relief of not  
33 more than thirty days to operators of foster homes or to family members.

34           41. "Substantial compliance" means that the nature or number of  
35 violations revealed by any type of inspection or investigation of a health  
36 care institution does not pose a direct risk to the life, health or safety of  
37 patients or residents.

38           42. "Supervision" means direct overseeing and inspection of the act of  
39 accomplishing a function or activity.

40           43. "Supervisory care services" means general supervision, including  
41 daily awareness of resident functioning and continuing needs, the ability to  
42 intervene in a crisis and assistance in the self-administration of prescribed  
43 medications.

1           44. "Temporary license" means a license that is issued by the  
2 department to operate a class or subclass of a health care institution at a  
3 specific location and that is valid until an initial licensing inspection.

4           45. "Unscheduled medical services" means medically necessary periodic  
5 health care services that are unanticipated or cannot reasonably be  
6 anticipated and that require medical evaluation or treatment before the next  
7 business day.

8           B. If there are fewer than four Arizona long-term care system  
9 participants receiving adult foster care in an adult foster care home,  
10 nonparticipating adults may receive other types of services that are  
11 authorized by law to be provided in the adult foster care home as long as the  
12 number of adults served, including the Arizona long-term care system  
13 participants, does not exceed four.

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

18           Sec. 4. Heading change

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

22           Sec. 5. Section 36-551, Arizona Revised Statutes, is amended to read:

23           36-551. Definitions

24           In this chapter, unless the context otherwise requires:

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

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

34           (a) Room and board.

35           (b) Habilitation.

36           (c) Appropriate personal care.

37           (d) Appropriate supervision.

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

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

- 1           5. "Arizona training program facility" means a ~~state-operated~~  
2     STATE-OPERATED institution for clients OF THE DEPARTMENT with developmental  
3     disabilities ~~of the department~~.
- 4           6. "Attributable to cognitive disability, epilepsy, cerebral palsy or  
5     autism" means that there is a causal relationship between the presence of an  
6     impairing condition and the developmental disability.
- 7           7. "Autism" means a condition characterized by severe disorders in  
8     communication and behavior resulting in limited ability to communicate,  
9     understand, learn and participate in social relationships.
- 10          8. "Case management" means coordinating the assistance needed by  
11     persons with developmental disabilities and their families in order to ensure  
12     that persons with developmental disabilities attain their maximum potential  
13     for independence, productivity and integration into the community.
- 14          9. "Case manager" means a person who coordinates the implementation of  
15     the individual program plan of goals, objectives and appropriate services for  
16     persons with developmental disabilities.
- 17          10. "Cerebral palsy" means a permanently disabling condition resulting  
18     from damage to the developing brain that may occur before, after or during  
19     birth and that results in loss or impairment of control over voluntary  
20     muscles.
- 21          11. "Child developmental ~~foster~~ home" means a residential setting in a  
22     family home in which the care, ~~physical custody~~ and supervision of the child  
23     are the responsibility, under a ~~twenty-four hour~~ TWENTY-FOUR-HOUR care model,  
24     of the licensee who serves as the ~~foster parent~~ DEVELOPMENTAL HOME PROVIDER  
25     of the child in the home setting and who, in that capacity, is not an  
26     employee of the division or of a service provider and the home provides the  
27     following services for a group of siblings or up to three children with  
28     developmental disabilities:  
29           (a) Room and board.  
30           (b) Habilitation.  
31           (c) Appropriate personal care.  
32           (d) Appropriate supervision.
- 33          12. "Client" means a person receiving developmental disabilities  
34     services from the department.
- 35          13. "Cognitive disability" means a condition that involves subaverage  
36     general intellectual functioning, that exists concurrently with deficits in  
37     adaptive behavior manifested before THE age OF eighteen and that is sometimes  
38     referred to as intellectual disability.
- 39          14. "Community residential setting" means a RESIDENTIAL SETTING IN  
40     WHICH PERSONS WITH DEVELOPMENTAL DISABILITIES LIVE AND ARE PROVIDED WITH  
41     APPROPRIATE SUPERVISION BY THE SERVICE PROVIDER RESPONSIBLE FOR THE OPERATION  
42     OF THE RESIDENTIAL SETTING. COMMUNITY RESIDENTIAL SETTING INCLUDES A child  
43     developmental ~~foster~~ home, ~~OR~~ an adult developmental home OPERATED OR  
44     CONTRACTED BY THE DEPARTMENT OR THE DEPARTMENT'S CONTRACTED VENDOR or a  
45     ~~secure setting~~ GROUP HOME operated or contracted by the department ~~in which~~

1 ~~persons with developmental disabilities live and are provided with~~  
2 ~~appropriate supervision by the service provider responsible for the operation~~  
3 ~~of the residential setting.~~

4 15. "Consent" means voluntary informed consent. Consent is voluntary  
5 if not given as the result of coercion or undue influence. Consent is  
6 informed if the person giving the consent has been informed of and  
7 comprehends the nature, purpose, consequences, risks and benefits of the  
8 alternatives to the procedure, and has been informed and comprehends that  
9 withholding or withdrawal of consent will not prejudice the future provision  
10 of care and services to the client. In cases of unusual or hazardous  
11 treatment procedures performed pursuant to section 36-561, subsection A,  
12 experimental research, organ transplantation and nontherapeutic surgery,  
13 consent is informed if, in addition to the foregoing, the person giving the  
14 consent has been informed of and comprehends the method to be used in the  
15 proposed procedure.

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

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

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

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

26 (b) Is manifested before THE age OF eighteen.

27 (c) Is likely to continue indefinitely.

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

30 (i) Self-care.

31 (ii) Receptive and expressive language.

32 (iii) Learning.

33 (iv) Mobility.

34 (v) Self-direction.

35 (vi) Capacity for independent living.

36 (vii) Economic self-sufficiency.

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

40 19. "Director" means the director of the department of economic  
41 security.

42 20. "Division" means the division of developmental disabilities in the  
43 department of economic security.

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

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

12           23. "Guardian" means the person who, under court order, is appointed  
13 to fulfill the powers and duties prescribed in section 14-5312. Guardian  
14 does not include a guardian pursuant to section 14-5312.01.

15           24. "Habilitation" means the process by which a person is assisted to  
16 acquire and maintain those life skills that enable the person to cope more  
17 effectively with personal and environmental demands and to raise the level of  
18 the person's physical, mental and social efficiency.

19           25. "Indigent" means a person with a developmental disability whose  
20 estate or parent is unable to bear the full cost of maintaining or providing  
21 services for that person in a developmental disabilities program.

22           26. "Individual program plan" means a written statement of services to  
23 be provided to a person with developmental disabilities, including  
24 habilitation goals and objectives, ~~which~~ THAT is developed following initial  
25 placement evaluation and revised after periodic evaluations.

26           27. "Intermediate care facility for persons with an intellectual  
27 disability" means a facility that primarily provides health and  
28 rehabilitative services to persons with developmental disabilities that are  
29 above the service level of room and board or supervisory care services or  
30 personal care services as defined in section 36-401 but that are less  
31 intensive than skilled nursing services.

32           28. "Large group setting" means a setting that in addition to  
33 residential care provides support services such as therapy, recreation and  
34 transportation to seven or more persons with developmental disabilities who  
35 require intensive supervision.

36           29. "Least restrictive alternative" means an available program or  
37 facility that fosters independent living, that is the least confining for the  
38 client's condition and where service and treatment are provided in the least  
39 intrusive manner reasonably and humanely appropriate to the individual's  
40 needs.

41           30. "Likely to continue indefinitely" means that the developmental  
42 disability has a reasonable likelihood of continuing for a protracted period  
43 of time or for life.

1           31. "Manifested before THE age OF eighteen" means that the disability  
2 must be apparent and have a substantially limiting effect on a person's  
3 functioning before THE age OF eighteen.

4           32. "Physician" means a person who is licensed to practice pursuant to  
5 title 32, chapter 13 or 17.

6           33. "Placement evaluation" means an interview and evaluation of a  
7 person with a developmental disability and a review of the person's prior  
8 medical and program histories to determine the appropriate developmental  
9 disability programs and services for the person and recommendations for  
10 specific program placements for the person.

11           34. "Psychologist" means a person who is licensed pursuant to title  
12 32, chapter 19.1.

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

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

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

25           ~~38.~~ 37. "Service provider" means a person or agency that provides  
26 services to clients pursuant to a contract, service agreement or qualified  
27 vendor agreement with the division.

28           ~~39.~~ 38. "State operated service center" means a state owned or leased  
29 facility that is operated by the department and that provides temporary  
30 residential care and space for child and adult services that include respite  
31 care, crisis intervention and diagnostic evaluation.

32           ~~40.~~ 39. "Subaverage general intellectual functioning" means measured  
33 intelligence on standardized psychometric instruments of two or more standard  
34 deviations below the mean for the tests used.

35           ~~41.~~ 40. "Substantial functional limitation" means a limitation so  
36 severe that extraordinary assistance from other people, programs, services or  
37 mechanical devices is required to assist the person in performing appropriate  
38 major life activities.

39           ~~42.~~ 41. "Supervision" means the process by which the activities of an  
40 individual with developmental disabilities are directed, influenced or  
41 monitored.

42           Sec. 6. Section 36-554, Arizona Revised Statutes, is amended to read:

43           36-554. Powers and duties of director

44           A. The director shall:

1           1. Be responsible for developing and annually revising a statewide  
2 plan and initiating statewide programs and services for persons with  
3 developmental disabilities in locations where the programs and services are  
4 necessary, which shall include:

5           (a) Child services, which may include infant stimulation,  
6 developmental training for ~~pre-school~~ PRESCHOOL children and special  
7 education at Arizona training program facilities for school-age, ~~children~~  
8 with developmental disabilities residing at Arizona training program  
9 facilities who do not attend public school.

10           (b) Adult services, in coordination with the vocational rehabilitation  
11 services of the department, which may include but not be limited to job  
12 training and training and adjustment services, job development and placement,  
13 sheltered employment and other nonvocational day activity services for  
14 adults.

15           (c) Residential services, including various community residential  
16 settings, Arizona training program facilities and state operated service  
17 centers ~~which~~ THAT provide varying levels of supervision in accordance with  
18 the developmental disability levels of the persons placed at such settings,  
19 facilities or centers. The department shall contract with private profit or  
20 nonprofit agencies to provide appropriate residential settings for persons  
21 with developmental disabilities ~~which~~ THAT provide for regular assistance and  
22 supervision of such persons and ~~which~~ THAT provide varied developmental  
23 disability programs and services on or near the community residential  
24 setting.

25           (d) Resource services, which may include comprehensive evaluation  
26 services, information and referral services and outpatient rehabilitation and  
27 social development services. The department in providing developmental  
28 disability programs and services shall whenever practicable utilize qualified  
29 private contractors. In selecting private contractors, the department shall  
30 utilize those contractors ~~which~~ THAT can clearly demonstrate an ability to  
31 perform such contract in accordance with standards and specifications adopted  
32 by the department.

33           2. Establish standards, provide technical assistance, ~~and~~ supervise  
34 all developmental disability programs and services operated by or supported  
35 by the department.

36           3. Coordinate the planning and implementation of developmental  
37 disability programs and activities, institutional and community, of all state  
38 agencies, provided this shall not be construed as depriving other state  
39 agencies of jurisdiction over, or the right to plan for, control, ~~and~~  
40 operate programs that pertain to developmental disability programs but that  
41 fall within the primary jurisdiction of such other state agencies.

42           4. Periodically assess the effectiveness of the quality assurance  
43 system as required by 42 Code of Federal Regulations section 434.34 as it  
44 pertains to developmental disabilities programs.

45           5. License community residential settings pursuant to this chapter.

1           6. Develop rules establishing a procedure for handling complaints  
2 about community residential settings.

3           7. Inform in writing every parent or guardian of a client with a  
4 developmental disability residing at or transferring to a community  
5 residential setting of the complaint handling procedure.

6           ~~8. As new community residential settings are developed over a period  
7 of time, reduce the clientele at Arizona training program facilities to those  
8 persons with developmental disabilities who are required to be in Arizona  
9 training program facilities because the community lacks an appropriate  
10 community residential setting that meets their individual needs or whose  
11 parents or legal guardians want them in an Arizona training program facility.~~

12           9. 8. In conjunction with the division, individuals with  
13 developmental disabilities and their families, advocates, community members  
14 and service providers, develop, enhance and support environments that enable  
15 individuals with developmental disabilities to achieve and maintain physical  
16 well-being, personal and professional satisfaction, participation as family  
17 and community members and safety from abuse and exploitation.

18           ~~10.~~ 9. Do all other things reasonably necessary and proper to carry  
19 out the duties and the provisions of this chapter.

20           ~~11.~~ 10. Adopt rules regarding procurement procedures similar to those  
21 found in title 41, chapter 23.

22           B. Programs and services offered pursuant to subsection A, paragraph 1  
23 of this section shall be provided in cooperation with public and private  
24 resources that can best meet the needs of persons with developmental  
25 disabilities and that are located in the community and in proximity to the  
26 persons being served.

27           C. The director may:

28           1. Establish nonresidential outpatient programs for THE placement,  
29 evaluation, care, treatment and training of persons with developmental  
30 disabilities residing in the community who are not eligible for public school  
31 programs, and who do not have access to other ~~state-supported~~  
32 STATE-SUPPORTED programs providing equivalent services.

33           2. Develop cooperative programs with other state departments and  
34 agencies, political subdivisions of the state, and private agencies  
35 concerned with and providing services for persons with developmental  
36 disabilities.

37           3. Contract for the purchase of services with other state and local  
38 governmental or private agencies. Such agencies are authorized to accept and  
39 expend funds received pursuant to such contracts.

40           4. Stimulate research by public and private agencies, institutions of  
41 higher learning, and hospitals in the interest of the prevention of  
42 developmental disabilities and improved methods of care and training for  
43 persons with developmental disabilities.

44           5. Apply for, accept, receive, hold in trust or use in accordance with  
45 the terms of the grant or agreement any public or private funds or

1 properties, real or personal, granted or transferred to it for any purpose  
2 authorized by this chapter.

3 6. Make and amend rules from time to time as deemed necessary for the  
4 proper administration of programs and services for the treatment of persons  
5 with developmental disabilities, for the admission of persons with  
6 developmental disabilities to the programs and services and to carry out the  
7 purposes of this chapter.

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

9 36-558. Establishment and maintenance of programs and services:  
10 definition

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

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

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

22 1. Child services, which may include:

23 (a) Infant stimulation.

24 (b) Developmental day training and related preschool programs.

25 (c) Special education at department facilities.

26 2. Adult services, which may include:

27 (a) Job training for specific jobs.

28 (b) Training and personal adjustment tools such as the teaching of  
29 work skills.

30 (c) Job development and placement.

31 (d) The provision of sheltered employment opportunities.

32 (e) Adult day activity services.

33 3. Residential services, which shall include:

34 (a) Arizona training program facilities.

35 (b) State owned and operated service centers.

36 (c) Community residential settings under varying degrees of  
37 supervision or a semi-independent living arrangement. ~~Community residential~~  
38 ~~settings include, subject to the availability of funding, a secure facility.~~

39 (d) Respite care.

40 4. Resource services, which may include:

41 (a) ~~Diagnosis~~ **DIAGNOSES** and ~~evaluation~~ **EVALUATIONS**.

42 (b) Therapy services, including physical therapy, speech therapy,  
43 occupational therapy and behavioral therapy.

44 (c) Health-related services, including dental services.

1 (d) Social development and adjustment services, including recreation  
2 programs.

3 (e) Transportation.

4 (f) Information and referral.

5 (g) In-home services.

6 5. Public information resources on developmental disabilities.

7 6. Training and practicum programs in conjunction with other state  
8 agencies and universities and colleges for teachers, psychologists, social  
9 workers, medical personnel and others interested in the field of  
10 developmental disabilities.

11 7. Research laboratories in the fields of behavioral services and  
12 abstract research.

13 8. Guardianship services.

14 D. Services of a facility may not supplant existing community services  
15 THAT ARE provided through other local, city or state resources.

16 E. The department shall stimulate, cooperate with and promote the  
17 development of community programs through existing resources and provide  
18 consultation wherever needed.

19 F. A service provider who is providing guardianship services must  
20 comply with the disclosure requirements of section 14-5106 and shall not  
21 provide services to a person with developmental disabilities that would cause  
22 a conflict of interest or that would jeopardize the service provider's  
23 ability to represent the person with developmental disabilities as a  
24 guardian.

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

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

32 36-558.01. Operation, support and supervision of child  
33 development homes and foster homes; duties of  
34 department

35 A. The department shall operate directly or support and supervise  
36 child developmental ~~foster~~ homes and foster homes licensed pursuant to title  
37 8, chapter 4, article 4 to provide specialized foster care to persons with  
38 developmental disabilities. Such homes shall be operated for persons placed  
39 pursuant to sections 8-514.01 and 8-845 and for appropriate placements for  
40 persons for whom AND application for residential services has been made to  
41 the department.

42 B. In furtherance of its responsibility pursuant to subsection A  
43 of this section, the department shall recruit, license and support such homes  
44 in accordance with this chapter, maintain regular supervision of such homes  
45 and such placements, conduct training programs for the staff of such homes

1 and develop the program and service standards for persons with developmental  
2 disabilities to be placed in such homes.

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

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

8 36-591. Adult developmental homes; child developmental homes;  
9 licensing; applicability

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

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

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

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

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

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

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

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

25 3. Of substantiated complaints regarding health and safety.

26 E. The division shall ensure that ~~state-operated~~ STATE-OPERATED  
27 residential settings that are owned or leased facilities operated by the  
28 division meet the same standards as group homes unless they are certified as  
29 intermediate care facilities for persons with an intellectual disability  
30 pursuant to 42 Code of Federal Regulations section 483.400. AN INTERMEDIATE  
31 CARE FACILITY FOR PERSONS WITH AN INTELLECTUAL DISABILITY THAT IS OPERATED BY  
32 THE DIVISION OR PRIVATE ENTITY IS NOT REQUIRED TO BE LICENSED UNDER THIS  
33 SECTION IF IT IS CERTIFIED PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION  
34 483.400.

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

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

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

2 36-592. Adult developmental homes; child developmental homes;  
3 license application; investigation and operation

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

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

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

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

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

19 2. File reports as prescribed by the department.

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

22 4. Comply with rules adopted by the department.

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

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

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

28 1. Conduct an annual home visit.

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

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

32 36-593. Adult developmental homes; child developmental homes;  
33 provisional licenses

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

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

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

43 D. If the department determines that the applicant or licensee meets  
44 the standards established by the department, ~~it~~ THE DEPARTMENT shall issue a

1 regular license. The regular license is valid for one year from the date the  
2 department issued the provisional license.

3 Sec. 12. Section 36-594, Arizona Revised Statutes, is amended to read:  
4 36-594. Denial, suspension or revocation of license

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

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

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

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

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

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

27 Sec. 13. Section 36-594.02, Arizona Revised Statutes, is amended to  
28 read:

29 36-594.02. Fingerprinting of adult developmental home licensees  
30 and child developmental home licensees

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

38 Sec. 14. Repeal

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

40 Sec. 15. Section 36-2939, Arizona Revised Statutes, is amended to  
41 read:

42 36-2939. Long-term care system services

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

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

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

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

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

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

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

19           1. Intermediate care facility services for a member who has a  
20 developmental disability as defined in section 36-551. For purposes of this  
21 article, a facility shall meet all federally approved standards and may only  
22 include the Arizona training program facilities, a state owned and operated  
23 service center, state owned or operated community residential settings and  
24 private ~~state-licensed~~ facilities that contract with the department.

25           2. Home and community based services that may be provided in a  
26 member's home, at an alternative residential setting as prescribed in section  
27 36-591 or at other behavioral health alternative residential facilities  
28 licensed by the department of health services and approved by the director of  
29 the Arizona health care cost containment system administration and that may  
30 include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20           9. Home delivered meals, which means a service that provides for a  
21 nutritious meal ~~containing~~ THAT CONTAINS at least one-third of the  
22 recommended dietary allowance for an individual and ~~which~~ THAT is delivered  
23 to the member's residence.

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

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

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

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

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

21 Sec. 16. Section 41-1037, Arizona Revised Statutes, is amended to  
22 read:

23 41-1037. General permits; issuance of traditional permit

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

- 29 1. A general permit is prohibited by federal law.
- 30 2. The issuance of an alternative type of permit, license or  
31 authorization is specifically authorized by state statute.
- 32 3. The issuance of a general permit is not technically feasible or  
33 would not meet the applicable statutory requirements.
- 34 4. The issuance of a general permit would result in additional  
35 regulatory requirements or costs being placed on the permit applicant.
- 36 5. The permit, license or authorization is issued pursuant to section  
37 8-126, 8-503, 8-505, 23-504, 36-592, 36-594.01, 36-595, ~~36-595.03~~, 36-596,  
38 36-596.54, 41-1967.01 or 46-807.
- 39 6. The permit, license or authorization is issued pursuant to title V  
40 of the clean air act.

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