

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

CHAPTER 286
HOUSE BILL 2099

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 8-501, Arizona Revised Statutes, is amended to
3 read:
4 ~~8-501.~~ Definitions
5 A. In this article, unless the context otherwise requires:
6 1. "CHILD DEVELOPMENTAL CERTIFIED HOME" MEANS A REGULAR FOSTER HOME
7 THAT IS LICENSED PURSUANT TO SECTION 8-509 AND THAT IS CERTIFIED BY THE
8 DEPARTMENT OF ECONOMIC SECURITY PURSUANT TO SECTION 36-593.01.
9 ~~1.~~ 2. "Child welfare agency" or "agency":
10 (a) Means:
11 (i) Any agency or institution THAT IS maintained by a person, firm,
12 corporation, association or organization to receive children for care and
13 maintenance or for twenty-four hour social, emotional or educational
14 supervised care or who have been adjudicated as a delinquent or dependent
15 child.
16 (ii) Any institution that provides care for unmarried mothers and
17 their children.
18 (iii) Any agency THAT IS maintained by this state, a political
19 subdivision of this state or a person, firm, corporation, association or
20 organization to place children or unmarried mothers in a foster home.
21 (b) Does not include state operated institutions or facilities,
22 detention facilities for children established by law, health care
23 institutions that are licensed by the department of health services pursuant
24 to title 36, chapter 4 or private agencies that exclusively provide children
25 with social enrichment or recreational opportunities and that do not use
26 restrictive behavior management techniques.
27 ~~2.~~ 3. "Division" or "department" means the department of child
28 safety.
29 ~~3.~~ 4. "Former dependent child" means a person who was previously
30 adjudicated a dependent child in a dependency proceeding that has been
31 dismissed by order of the juvenile court.
32 ~~4.~~ 5. "Foster child" means a child placed in a foster home or child
33 welfare agency.
34 ~~5.~~ 6. "Foster home" means a home THAT IS maintained by any individual
35 or individuals having the care or control of minor children, other than those
36 related to each other by blood or marriage, or related to such individuals,
37 or who are legal wards of such individuals.
38 ~~6.~~ 7. "Foster parent" means any individual or individuals maintaining
39 a foster home.
40 ~~7.~~ 8. "Group foster home" means a licensed regular or special foster
41 home THAT IS suitable for placement of more than five minor children but not
42 more than ten minor children.
43 ~~8.~~ 9. "Out-of-home placement" means the placing of a child in the
44 custody of an individual or agency other than with the child's parent or
45 legal guardian and includes placement in temporary custody pursuant to

1 section 8-821, subsection A or B, voluntary placement pursuant to section
2 8-806 or placement due to dependency actions.

3 ~~9-~~ 10. "Parent" means the natural or adoptive mother or father of a
4 child.

5 ~~10-~~ 11. "Reason for leaving care" means one of the following:

6 (a) Reunification with a parent or primary caretaker.

7 (b) Living with another relative.

8 (c) Adoption by a relative.

9 (d) Adoption by a foster parent.

10 (e) Adoption by another person.

11 (f) Age of majority.

12 (g) Guardianship by a relative.

13 (h) Guardianship by another person.

14 (i) Transfer to another agency.

15 (j) Runaway.

16 (k) Death.

17 ~~11-~~ 12. "Receiving foster home" means a licensed foster home **THAT IS**
18 suitable for immediate placement of children when taken into custody or
19 pending medical examination and court disposition.

20 ~~12-~~ 13. "Regular foster home" means a licensed foster home **THAT IS**
21 suitable for placement of not more than five minor children.

22 ~~13-~~ 14. "Relative" means a grandparent, great-grandparent, brother or
23 sister of whole or half blood, aunt, uncle or first cousin.

24 ~~14-~~ 15. "Restrictive behavior management" means an intervention or
25 procedure that attempts to guide, redirect, modify or manage behavior through
26 the use of any of the following:

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

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

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

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

1 permit the child to participate in activities in order to reduce the risk of
2 physical harm to the child.

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

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

13 ~~15.~~ 16. "Special foster home" means a licensed foster home **THAT IS**
14 capable of handling not more than five minor children who require special
15 care for physical, mental or emotional reasons or who have been adjudicated
16 delinquent. Special foster home includes any home handling foster children
17 aged twelve through seventeen.

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

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

23 ~~8-503.~~ Powers and duties

24 A. The division shall:

25 1. Exercise supervision over all child welfare agencies.

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

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

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

31 (a) Licensing of child welfare agencies.

32 (b) Licensing of foster homes.

33 (c) Classifications of foster homes as:

34 (i) Receiving foster homes.

35 (ii) Regular foster homes.

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

38 (iv) Group foster homes.

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

41 (e) Initial and ongoing foster parent training programs.

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

43 (g) Uniform amounts of payment for all foster homes according to
44 certification. However, variations in uniform amounts of payments may be
45 allowed for foster homes based on consideration of geographical location or
46 age or mental or physical condition of a foster child.

1 (h) Renewal of licenses of child welfare agencies and foster homes.
2 (i) Form and content of investigations, reports and studies concerning
3 disposition of children and foster home placement.
4 5. Establish a program of counseling and rehabilitation of parents
5 whose children have been placed in foster homes.
6 6. Establish foster parent training programs or contract with other
7 agencies, institutions or groups for the provision of such programs to foster
8 parents. Foster parent training programs shall be established in at least
9 the following areas:
10 (a) Initial and ongoing training as a foster parent for a regular or
11 group foster home.
12 (b) Initial and ongoing training as a foster parent for a special
13 foster home.
14 7. Regulate the importation and exportation of children.
15 8. In conjunction with the department of education and the department
16 of juvenile corrections, develop and implement a uniform budget format to be
17 submitted by licensed child welfare agencies. The budget format shall be
18 developed in such a manner that, at a minimum, residential and educational
19 instructional costs are separate and distinct budgetary items.
20 9. ~~Beginning October 1, 1983,~~ Establish as a goal that, at any given
21 time, not more than fifty ~~per-cent~~ PERCENT of the total number of children
22 whose maintenance is subsidized by title IV, part E of the social security
23 act, as amended, shall be in foster care in excess of twenty-four consecutive
24 months. The division shall establish through regulations appropriate
25 procedures to achieve the goal.
26 B. Except as provided in section 8-514.01, large group settings for
27 children, group homes for children and child developmental ~~foster~~ homes ~~which~~
28 ~~THAT~~ have one or more residents who are clients of the department with
29 developmental disabilities shall be licensed pursuant to title 36,
30 chapter 5.1, article 3. Rules, regulations and standards adopted pursuant to
31 subsection A, paragraph 4 of this section shall not apply to group homes for
32 children or child developmental ~~foster~~ homes licensed pursuant to title 36,
33 chapter 5.1, article 3.
34 Sec. 3. Section 8-514.01, Arizona Revised Statutes, is amended to
35 read:
36 8-514.01. Placement of children with developmental disabilities
37 A. All foster placements of children with developmental disabilities
38 made by the division shall be made to child developmental ~~foster~~ homes for
39 children with developmental disabilities ~~THAT ARE~~ operated or licensed by the
40 department of economic security pursuant to title 36, chapter 5.1, article 3
41 ~~AND~~ that provide specialized programs for children with developmental
42 disabilities, except that placements of children with developmental
43 disabilities to ~~other types of~~ foster homes licensed pursuant to this article
44 may be made, ~~if the division determines that such placement is in the best~~
45 interests of the child.

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

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

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

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

14 Sec. 4. Section 36-401, Arizona Revised Statutes, is amended to read:
15 36-401. Definitions; adult foster care

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

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

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

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

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

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

39 6. "Adult foster care services" means supervision, assistance with
40 eating, bathing, toileting, dressing, self-medication and other routines of
41 daily living or services authorized by rules adopted pursuant to section
42 36-405 and section 36-2939, subsection C.

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

45 8. "Assisted living facility" means a residential care institution,
46 including an adult foster care home, that provides or contracts to provide

1 supervisory care services, personal care services or directed care services
2 on a continuous basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 19. "Freestanding urgent care center":

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

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

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

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

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

6 (b) Does not include the following:

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

9 (ii) A qualifying community health center pursuant to section
10 36-2907.06.

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

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

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

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

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

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

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

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

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

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

44 28. "Licensed capacity" means the total number of persons for whom the
45 health care institution is authorized by the department to provide services
46 as required pursuant to this chapter if the person is expected to stay in the

1 health care institution for more than twenty-four hours. For a hospital,
2 licensed capacity means only those beds specified on the hospital license.

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

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

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

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

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

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

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

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

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

37 (c) Outdoor youth programs licensed by the department of economic
38 security.

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

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

1 38. "Residential care institution" means a health care institution
2 other than a hospital or a nursing care institution that provides resident
3 beds or residential units, supervisory care services, personal care services,
4 behavioral health services, directed care services or health-related services
5 for persons who do not need continuous nursing services.

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

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

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

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

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

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

26 45. "Unscheduled medical services" means medically necessary periodic
27 health care services that are unanticipated or cannot reasonably be
28 anticipated and that require medical evaluation or treatment before the next
29 business day.

30 B. If there are fewer than four Arizona long-term care system
31 participants receiving adult foster care in an adult foster care home,
32 nonparticipating adults may receive other types of services that are
33 authorized by law to be provided in the adult foster care home as long as the
34 number of adults served, including the Arizona long-term care system
35 participants, does not exceed four.

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

40 Sec. 5. Heading change

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

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

45 36-551. Definitions

46 In this chapter, unless the context otherwise requires:

- 1 1. "Adaptive behavior" means the effectiveness or degree to which the
2 individual meets the standards of personal independence and social
3 responsibility expected of the person's age and cultural group.
- 4 2. "Adult developmental home" means a residential setting in a family
5 home in which the care, physical custody and supervision of the adult client
6 are the responsibility, under a ~~twenty-four-hour~~ TWENTY-FOUR-HOUR care model,
7 of the licensee who, in that capacity, is not an employee of the division or
8 of a service provider and the home provides the following services for a
9 group of siblings or up to three adults with developmental disabilities:
- 10 (a) Room and board.
11 (b) Habilitation.
12 (c) Appropriate personal care.
13 (d) Appropriate supervision.
- 14 3. "Adult household member" means a person who is at least eighteen
15 years of age and who resides in an adult developmental home, child
16 developmental ~~foster~~ home, ~~secure setting~~ or OTHER home and community based
17 service setting for at least thirty days or who resides in the household
18 throughout the year for more than a cumulative total of thirty days.
- 19 4. "Advisory council" means the developmental disabilities advisory
20 council.
- 21 5. "Arizona training program facility" means a ~~state-operated~~
22 STATE-OPERATED institution for clients OF THE DEPARTMENT with developmental
23 disabilities ~~of the department~~.
- 24 6. "Attributable to cognitive disability, epilepsy, cerebral palsy or
25 autism" means that there is a causal relationship between the presence of an
26 impairing condition and the developmental disability.
- 27 7. "Autism" means a condition characterized by severe disorders in
28 communication and behavior resulting in limited ability to communicate,
29 understand, learn and participate in social relationships.
- 30 8. "Case management" means coordinating the assistance needed by
31 persons with developmental disabilities and their families in order to ensure
32 that persons with developmental disabilities attain their maximum potential
33 for independence, productivity and integration into the community.
- 34 9. "Case manager" means a person who coordinates the implementation of
35 the individual program plan of goals, objectives and appropriate services for
36 persons with developmental disabilities.
- 37 10. "Cerebral palsy" means a permanently disabling condition resulting
38 from damage to the developing brain that may occur before, after or during
39 birth and that results in loss or impairment of control over voluntary
40 muscles.
- 41 11. "CHILD DEVELOPMENTAL CERTIFIED HOME" MEANS A REGULAR FOSTER HOME
42 AS DEFINED IN SECTION 8-501 THAT IS LICENSED PURSUANT TO SECTION 8-509 AND
43 THAT IS CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 36-593.01.
- 44 ~~11.~~ 12. "Child developmental ~~foster~~ home" means a residential setting
45 in a family home in which the care, ~~physical custody~~ and supervision of the
46 child are the responsibility, under a ~~twenty-four-hour~~ TWENTY-FOUR-HOUR care

1 model, of the licensee who serves as the ~~foster-parent~~ DEVELOPMENTAL HOME
2 PROVIDER of the child in the home setting and who, in that capacity, is not
3 an employee of the division or of a service provider and the home provides
4 the following services for a group of siblings or up to three children with
5 developmental disabilities:

- 6 (a) Room and board.
- 7 (b) Habilitation.
- 8 (c) Appropriate personal care.
- 9 (d) Appropriate supervision.

10 ~~12-~~ 13. "Client" means a person receiving developmental disabilities
11 services from the department.

12 ~~13-~~ 14. "Cognitive disability" means a condition that involves
13 subaverage general intellectual functioning, that exists concurrently with
14 deficits in adaptive behavior manifested before THE age OF eighteen and that
15 is sometimes referred to as intellectual disability.

16 ~~14-~~ 15. "Community residential setting" means a RESIDENTIAL SETTING
17 IN WHICH PERSONS WITH DEVELOPMENTAL DISABILITIES LIVE AND ARE PROVIDED WITH
18 APPROPRIATE SUPERVISION BY THE SERVICE PROVIDER RESPONSIBLE FOR THE OPERATION
19 OF THE RESIDENTIAL SETTING. COMMUNITY RESIDENTIAL SETTING INCLUDES A child
20 developmental ~~foster~~ home, OR an adult developmental home OPERATED OR
21 CONTRACTED BY THE DEPARTMENT OR THE DEPARTMENT'S CONTRACTED VENDOR or a
22 ~~secure-setting~~ GROUP HOME operated or contracted by the department ~~in which~~
23 ~~persons with developmental disabilities live and are provided with~~
24 ~~appropriate supervision by the service provider responsible for the operation~~
25 ~~of the residential setting.~~

26 ~~15-~~ 16. "Consent" means voluntary informed consent. Consent is
27 voluntary if not given as the result of coercion or undue influence. Consent
28 is informed if the person giving the consent has been informed of and
29 comprehends the nature, purpose, consequences, risks and benefits of the
30 alternatives to the procedure, and has been informed and comprehends that
31 withholding or withdrawal of consent will not prejudice the future provision
32 of care and services to the client. In cases of unusual or hazardous
33 treatment procedures performed pursuant to section 36-561, subsection A,
34 experimental research, organ transplantation and nontherapeutic surgery,
35 consent is informed if, in addition to the foregoing, the person giving the
36 consent has been informed of and comprehends the method to be used in the
37 proposed procedure.

38 ~~16-~~ 17. "Daily habilitation" means habilitation as defined in this
39 section except that the method of payment is for one unit per residential
40 day.

41 ~~17-~~ 18. "Department" means the department of economic security.

42 ~~18-~~ 19. "Developmental disability" means either a strongly
43 demonstrated potential that a child under six years of age has a
44 developmental disability or will ~~become a child with~~ DEVELOP a developmental
45 disability, as determined by a test performed pursuant to section 36-694 or
46 by other appropriate tests, or a severe, chronic disability that:

- 1 (a) Is attributable to cognitive disability, cerebral palsy, epilepsy
2 or autism.
- 3 (b) Is manifested before THE age OF eighteen.
- 4 (c) Is likely to continue indefinitely.
- 5 (d) Results in substantial functional limitations in three or more of
6 the following areas of major life activity:
- 7 (i) Self-care.
- 8 (ii) Receptive and expressive language.
- 9 (iii) Learning.
- 10 (iv) Mobility.
- 11 (v) Self-direction.
- 12 (vi) Capacity for independent living.
- 13 (vii) Economic self-sufficiency.
- 14 (e) Reflects the need for a combination and sequence of individually
15 planned or coordinated special, interdisciplinary or generic care, treatment
16 or other services that are of lifelong or extended duration.
- 17 ~~19.~~ 20. "Director" means the director of the department of economic
18 security.
- 19 ~~20.~~ 21. "Division" means the division of developmental disabilities
20 in the department of economic security.
- 21 ~~21.~~ 22. "Epilepsy" means a neurological condition characterized by
22 abnormal electrical-chemical discharge in the brain. This discharge is
23 manifested in various forms of physical activities called seizures.
- 24 ~~22.~~ 23. "Group home" means a COMMUNITY residential setting for not
25 more than six persons with developmental disabilities that is operated by a
26 service provider under contract with the ~~division~~ DEPARTMENT and that
27 provides, ~~in a shared living environment,~~ room and board and daily
28 habilitation, AND OTHER ASSESSED MEDICALLY NECESSARY SERVICES AND SUPPORTS TO
29 MEET THE NEEDS OF EACH PERSON. Group home does not include an adult
30 developmental home, a child developmental ~~foster~~ home, ~~a secure setting~~ or an
31 intermediate care facility for persons with an intellectual disability.
- 32 ~~23.~~ 24. "Guardian" means the person who, under court order, is
33 appointed to fulfill the powers and duties prescribed in section 14-5312.
34 Guardian does not include a guardian pursuant to section 14-5312.01.
- 35 ~~24.~~ 25. "Habilitation" means the process by which a person is
36 assisted to acquire and maintain those life skills that enable the person to
37 cope more effectively with personal and environmental demands and to raise
38 the level of the person's physical, mental and social efficiency.
- 39 ~~25.~~ 26. "Indigent" means a person with a developmental disability
40 whose estate or parent is unable to bear the full cost of maintaining or
41 providing services for that person in a developmental disabilities program.
- 42 ~~26.~~ 27. "Individual program plan" means a written statement of
43 services to be provided to a person with developmental disabilities,
44 including habilitation goals and objectives, ~~which~~ THAT is developed
45 following initial placement evaluation and revised after periodic
46 evaluations.

1 ~~27.~~ 28. "Intermediate care facility for persons with an intellectual
2 disability" means a facility that primarily provides health and
3 rehabilitative services to persons with developmental disabilities that are
4 above the service level of room and board or supervisory care services or
5 personal care services as defined in section 36-401 but that are less
6 intensive than skilled nursing services.

7 ~~28.~~ 29. "Large group setting" means a setting that in addition to
8 residential care provides support services such as therapy, recreation and
9 transportation to seven or more persons with developmental disabilities who
10 require intensive supervision.

11 ~~29.~~ 30. "Least restrictive alternative" means an available program or
12 facility that fosters independent living, that is the least confining for the
13 client's condition and where service and treatment are provided in the least
14 intrusive manner reasonably and humanely appropriate to the individual's
15 needs.

16 ~~30.~~ 31. "Likely to continue indefinitely" means that the
17 developmental disability has a reasonable likelihood of continuing for a
18 protracted period of time or for life.

19 ~~31.~~ 32. "Manifested before THE age OF eighteen" means that the
20 disability must be apparent and have a substantially limiting effect on a
21 person's functioning before THE age OF eighteen.

22 ~~32.~~ 33. "Physician" means a person who is licensed to practice
23 pursuant to title 32, chapter 13 or 17.

24 ~~33.~~ 34. "Placement evaluation" means an interview and evaluation of a
25 person with a developmental disability and a review of the person's prior
26 medical and program histories to determine the appropriate developmental
27 disability programs and services for the person and recommendations for
28 specific program placements for the person.

29 ~~34.~~ 35. "Psychologist" means a person who is licensed pursuant to
30 title 32, chapter 19.1.

31 ~~35.~~ 36. "Respite services" means services that provide a short-term
32 or long-term interval of rest or relief to the care provider of a person with
33 a developmental disability.

34 ~~36.~~ 37. "Responsible person" means the parent or guardian of a minor
35 with a developmental disability, the guardian of an adult with a
36 developmental disability or an adult with a developmental disability who is a
37 client or an applicant for whom no guardian has been appointed.

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

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

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

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

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

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

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

16 36-558. Establishment and maintenance of programs and services;
17 definition

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

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

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

29 1. Child services, which may include:

30 (a) Infant stimulation.

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

32 (c) Special education at department facilities.

33 2. Adult services, which may include:

34 (a) Job training for specific jobs.

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

37 (c) Job development and placement.

38 (d) The provision of sheltered employment opportunities.

39 (e) Adult day activity services.

40 3. Residential services, which shall include:

41 (a) Arizona training program facilities.

42 (b) State owned and operated service centers.

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

46 (d) Respite care.

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

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

11 Sec. 9. Section 36-591, Arizona Revised Statutes, is amended to read:
12 36-591. Adult developmental homes; child developmental homes;
13 licensing; applicability

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

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

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

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

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

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

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

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

29 3. Of substantiated complaints regarding health and safety.

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

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

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

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

5 36-592. Adult developmental homes; child developmental homes;
6 license application; investigation and operation

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

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

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

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

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

22 2. File reports as prescribed by the department.

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

25 4. Comply with rules adopted by the department.

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

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

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

31 1. Conduct an annual home visit.

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

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

35 36-593. Adult developmental homes; child developmental homes;
36 provisional licenses

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

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

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

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

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

7 36-593.01. Child developmental certified homes; certification;
8 requirements; renewal; rules; definitions

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

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

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

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

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

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

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

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

39 1. MONITORING INFORMATION.

40 2. UNUSUAL INCIDENT REPORTS.

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

43 4. LICENSING INFORMATION.

44 5. CHANGES IN HOUSEHOLD COMPOSITION AND FOSTER CHILD PLACEMENTS.

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

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

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

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

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

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

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

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

28 K. IF THE FOSTER HOME DOES NOT MEET THE REQUIREMENTS FOR CERTIFICATION
29 AS A CHILD DEVELOPMENTAL CERTIFIED HOME, THE HOME MAY REMAIN LICENSED AS A
30 REGULAR FOSTER HOME AND CONTINUE TO SERVE A FOSTER CHILD WITH A DEVELOPMENTAL
31 DISABILITY WHO IS ALREADY PLACED IN THE HOME IF THE DEPARTMENT OF CHILD
32 SAFETY DETERMINES IT IS IN THE BEST INTERESTS OF THE FOSTER CHILD.

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

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

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

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

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

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

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

11 Sec. 13. Section 36-594, Arizona Revised Statutes, is amended to read:
12 36-594. Denial, suspension or revocation of license

13 The department may deny, suspend or revoke a license pursuant to title
14 41, chapter 6, article 6 for any one or a combination of the following:

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

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

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

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

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

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

37 36-594.02. Fingerprinting of adult developmental home licensees
38 and child developmental home licensees

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

46 Sec. 15. Repeal

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

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

4 36-2939. Long-term care system services

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

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

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

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

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

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

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

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

32 2. Home and community based services that may be provided in a
33 member's home, at an alternative residential setting as prescribed in section
34 36-591 or at other behavioral health alternative residential facilities
35 licensed by the department of health services and approved by the director of
36 the Arizona health care cost containment system administration and that may
37 include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 F. In addition to services provided pursuant to subsections A, B and C
42 of this section, the director may implement a demonstration project to
43 provide home and community based services to special populations, including
44 persons with disabilities who are eighteen years of age or younger, ARE
45 medically fragile, reside at home and would be eligible for supplemental
46 security income for the aged, blind or disabled or the state supplemental

1 payment program, except for the amount of their parent's income or resources.
2 In implementing this project, the director may provide for parental
3 contributions for the care of their child.

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

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

26 41-1037. General permits; issuance of traditional permit

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

32 1. A general permit is prohibited by federal law.

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

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

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

39 5. The permit, license or authorization is issued pursuant to section
40 8-126, 8-503, 8-505, 23-504, 36-592, 36-594.01, 36-595, ~~36-595.03~~, 36-596,
41 36-596.54, 41-1967.01 or 46-807.

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

44 B. The agency retains the authority to revoke an applicant's ability
45 to operate under a general permit and to require the applicant to obtain a

1 traditional permit if the applicant is in substantial noncompliance with the
2 applicable requirements for the general permit.

3 Sec. 18. Rulemaking exemption

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

APPROVED BY THE GOVERNOR MAY 17, 2016.

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