

House Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2743

AN ACT

AMENDING SECTIONS 36-551 AND 36-581, 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 36-551, Arizona Revised Statutes, is amended to
3 read:
4 36-551. Definitions
5 In this chapter, unless the context otherwise requires:
6 1. "Adaptive behavior" means the effectiveness or degree to which the
7 individual meets the standards of personal independence and social
8 responsibility expected of the person's age and cultural group.
9 2. "Adult developmental home" means a residential setting in a family
10 home in which the care, physical custody and supervision of the adult client
11 are the responsibility, under a twenty-four hour care model, of the licensee
12 who, in that capacity, is not an employee of the division or of a service
13 provider and the home provides the following services for a group of siblings
14 or up to three adults with developmental disabilities:
15 (a) Room and board.
16 (b) Habilitation.
17 (c) Appropriate personal care.
18 (d) Appropriate supervision.
19 3. "Adult household member" means a person who is at least eighteen
20 years of age and who resides in an adult developmental home, child
21 developmental foster home, secure setting or home and community based service
22 setting for at least thirty days or who resides in the household throughout
23 the year for more than a cumulative total of thirty days.
24 4. "Advisory council" means the developmental disabilities advisory
25 council.
26 5. "Arizona training program facility" means a state operated
27 institution for developmentally disabled clients of the department.
28 6. "Attributable to ~~mental retardation~~ COGNITIVE DISABILITY, epilepsy,
29 cerebral palsy or autism" means that there is a causal relationship between
30 the presence of an impairing condition and the developmental disability.
31 7. "Autism" means a condition characterized by severe disorders in
32 communication and behavior resulting in limited ability to communicate,
33 understand, learn and participate in social relationships.
34 8. "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 9. "Case management" means coordinating the assistance needed by
38 persons with developmental disabilities and their families in order to ensure
39 that persons with developmental disabilities attain their maximum potential
40 for independence, productivity and integration into the community.
41 10. "Cerebral palsy" means a permanently disabling condition resulting
42 from damage to the developing brain ~~which~~ THAT may occur before, after or
43 during birth and THAT results in loss or impairment of control over voluntary
44 muscles.

1 11. "Child developmental foster home" means a residential setting in a
2 family home in which the care, physical custody and supervision of the child
3 are the responsibility, under a twenty-four hour care model, of the licensee
4 who serves as the foster parent of the child in the home setting and who, in
5 that capacity, is not an employee of the division or of a service provider
6 and the home provides the following services for a group of siblings or up to
7 three children with developmental disabilities:

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

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

14 13. "COGNITIVE DISABILITY" MEANS A CONDITION THAT INVOLVES SUBAVERAGE
15 GENERAL INTELLECTUAL FUNCTIONING, THAT EXISTS CONCURRENTLY WITH DEFICITS IN
16 ADAPTIVE BEHAVIOR MANIFESTED BEFORE AGE EIGHTEEN AND THAT IS SOMETIMES
17 REFERRED TO AS INTELLECTUAL DISABILITY OR MENTAL RETARDATION.

18 ~~13.~~ 14. "Community residential setting" means a child developmental
19 foster home, an adult developmental home or a secure setting operated or
20 contracted by the department in which persons with developmental disabilities
21 live and are provided with appropriate supervision by the service provider
22 responsible for the operation of the residential setting.

23 ~~14.~~ 15. "Consent" means voluntary informed consent. Consent is
24 voluntary if not given as the result of coercion or undue influence. Consent
25 is informed if the person giving the consent has been informed of and
26 comprehends the nature, purpose, consequences, risks and benefits of the
27 alternatives to the procedure, and has been informed and comprehends that
28 withholding or withdrawal of consent will not prejudice the future provision
29 of care and services to the client. In cases of unusual or hazardous
30 treatment procedures performed pursuant to section 36-561, subsection A,
31 experimental research, organ transplantation and ~~non-therapeutic~~
32 NONTHERAPEUTIC surgery, consent is informed if, in addition to the foregoing,
33 the person giving the consent has been informed of and comprehends the method
34 to be used in the proposed procedure.

35 ~~15.~~ 16. "Daily habilitation" means habilitation as defined in this
36 section except that the method of payment is for one unit per residential
37 day.

38 ~~16.~~ 17. "Department" means the department of economic security.

39 ~~17.~~ 18. "Developmental disability" means either a strongly
40 demonstrated potential that a child under the age of six years is
41 developmentally disabled or will become developmentally disabled, as
42 determined by a test performed pursuant to section 36-694 or by other
43 appropriate tests, or a severe, chronic disability ~~which~~ THAT:

44 (a) Is attributable to ~~mental-retardation~~ COGNITIVE DISABILITY,
45 cerebral palsy, epilepsy or autism.

- 1 (b) Is ~~manifest~~ MANIFESTED before age eighteen.
- 2 (c) Is likely to continue indefinitely.
- 3 (d) Results in substantial functional limitations in three or more of
- 4 the following areas of major life activity:
- 5 (i) Self-care.
- 6 (ii) Receptive and expressive language.
- 7 (iii) Learning.
- 8 (iv) Mobility.
- 9 (v) Self-direction.
- 10 (vi) Capacity for independent living.
- 11 (vii) Economic self-sufficiency.
- 12 (e) Reflects the need for a combination and sequence of individually
- 13 planned or coordinated special, interdisciplinary or generic care, treatment
- 14 or other services ~~which~~ THAT are of lifelong or extended duration.
- 15 ~~18.~~ 19. "Director" means the director of the department of economic
- 16 security.
- 17 ~~19.~~ 20. "Division" means the division of developmental disabilities in
- 18 the department of economic security.
- 19 ~~20.~~ 21. "Epilepsy" means a neurological condition characterized by
- 20 abnormal electrical-chemical discharge in the brain. This discharge is
- 21 manifested in various forms of physical activities called seizures.
- 22 ~~21.~~ 22. "Group home" means a residential setting for not more than six
- 23 persons with developmental disabilities that is operated by a service
- 24 provider under contract with the division and that provides, in a shared
- 25 living environment, room and board and daily habilitation. Group home does
- 26 not include an adult developmental home, a child developmental foster home, a
- 27 secure setting or an intermediate care facility for the mentally retarded.
- 28 ~~22.~~ 23. "Guardian" means the person who, under court order, is
- 29 appointed to fulfill the powers and duties prescribed in section 14-5312.
- 30 Guardian does not include a guardian pursuant to section 14-5312.01.
- 31 ~~23. "Guardianship services" means services offered by a provider under~~
- 32 ~~contract with the division of developmental disabilities to act as a guardian~~
- 33 ~~to persons with developmental disabilities where no other appropriate~~
- 34 ~~guardian is available. The service provider shall, in addition to the~~
- 35 ~~disclosure requirements of section 14-5106, shall not provide other services~~
- 36 ~~to the ward that create a conflict of interest or jeopardize in any way its~~
- 37 ~~ability to represent the ward as guardian.~~
- 38 24. "Habilitation" means the process by which a person is assisted to
- 39 acquire and maintain those life skills that enable the person to cope more
- 40 effectively with ~~the~~ personal and environmental demands and to raise the
- 41 level of the person's physical, mental and social efficiency.
- 42 25. "Indigent" means a developmentally disabled person whose estate or
- 43 parent is unable to bear the full cost of maintaining or providing services
- 44 for that person in a developmental disabilities program.

1 26. "Individual program plan" means a written statement of services to
2 be provided to a person with developmental disabilities, including
3 habilitation goals and objectives, which is developed following initial
4 placement evaluation and revised after periodic evaluations.

5 27. "Intermediate care facility for the mentally retarded" means a
6 facility that primarily provides health and rehabilitative services to
7 persons with developmental disabilities that are above the service level of
8 room and board or supervisory care services or personal care services as
9 defined in section 36-401 but that are less intensive than skilled nursing
10 services.

11 28. "Large group setting" means a setting ~~which~~ THAT in addition to
12 residential care provides support services such as therapy, recreation and
13 transportation to seven or more developmentally disabled persons who require
14 intensive supervision.

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

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

23 31. "Manifested before age eighteen" means that the disability must be
24 apparent and have a substantially limiting effect on a person's functioning
25 before age eighteen.

26 ~~32. "Mental retardation" means a condition involving subaverage general
27 intellectual functioning and existing concurrently with deficits in adaptive
28 behavior manifested before age eighteen.~~

29 ~~33.~~ 32. "Physician" means a person WHO IS licensed to practice
30 pursuant to title 32, chapter 13 or 17.

31 ~~34.~~ 33. "Placement evaluation" means an interview and evaluation of a
32 developmentally disabled person and a review of the person's prior medical
33 and program histories to determine the appropriate developmental disability
34 programs and services for the person and recommendations for specific program
35 placements for the person.

36 ~~35.~~ 34. "Psychologist" means a person WHO IS licensed pursuant to
37 title 32, chapter 19.1.

38 ~~36.~~ 35. "Respite services" means services that provide a short-term or
39 long-term interval of rest or relief to the care provider of a
40 developmentally disabled person.

41 ~~37.~~ 36. "Responsible person" means the parent or guardian of a
42 developmentally disabled minor, the guardian of a developmentally disabled
43 adult or a developmentally disabled adult who is a client or an applicant for
44 whom no guardian has been appointed.

1 ~~38.~~ 37. "Secure facility" means a facility that is licensed and
2 monitored by the division, that is designed to provide both residential and
3 program services within the facility and that is operated to prevent clients
4 from leaving because of the danger they may present to themselves and the
5 community.

6 ~~39.~~ 38. "Service provider" means a person or agency that provides
7 services to clients pursuant to a contract, service agreement or qualified
8 vendor agreement with the division.

9 ~~40.~~ 39. "State operated service center" means a state owned or leased
10 facility that is operated by the department and that provides temporary
11 residential care and space for child and adult services ~~which~~ THAT include
12 respite care, crisis intervention and diagnostic evaluation.

13 ~~41.~~ 40. "Subaverage general intellectual functioning" means measured
14 intelligence on standardized psychometric instruments of two or more standard
15 deviations below the mean for the tests used.

16 ~~42.~~ 41. "Substantial functional limitation" means a limitation so
17 severe that extraordinary assistance from other people, programs, services or
18 mechanical devices is required to assist the person in performing appropriate
19 major life activities.

20 ~~43.~~ 42. "Supervision" means the process by which the activities of an
21 individual with developmental disabilities are directed, influenced or
22 monitored.

23 Sec. 2. Section 36-581, Arizona Revised Statutes, is amended to read:

24 ~~36-581.~~ Definitions

25 In this article, unless the context otherwise requires:

26 1. "Developmental disability" means autism, cerebral palsy, epilepsy
27 or ~~mental-retardation~~ COGNITIVE DISABILITY.

28 2. "Residential facility" means a home in which persons with
29 developmental disabilities live and ~~which~~ THAT is licensed, operated,
30 supported or supervised by the department.