

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

# SENATE BILL 1400

AN ACT

AMENDING SECTIONS 41-3803 AND 41-3804, ARIZONA REVISED STATUTES; RELATING TO HUMAN RIGHTS COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-3803, Arizona Revised Statutes, is amended to  
3 read:

4 41-3803. Human rights committee on the mentally ill; training  
5 plan

6 A. The human rights committee on the mentally ill is established in  
7 the department of health services to promote the rights of persons who  
8 receive behavioral health services pursuant to title 36, chapters 5 and 34.

9 B. Each region of the state covered by a regional behavioral health  
10 authority shall have at least one human rights committee with the authority  
11 and responsibilities as prescribed by the department of health services  
12 pursuant to rules adopted by the department relating to behavioral health  
13 services.

14 C. The director of the department of health services may establish  
15 additional committees to serve persons who receive behavioral health services  
16 or to oversee the activities of any service provider.

17 D. Each committee established pursuant to this section shall consist  
18 of at least seven and not more than fifteen members appointed by the director  
19 of the department of health services with expertise in at least one of the  
20 following areas:

- 21 1. Psychology.
- 22 2. Law.
- 23 3. Medicine.
- 24 4. Education.
- 25 5. Special education.
- 26 6. Social work.
- 27 7. MENTAL HEALTH.
- 28 8. HOUSING FOR THE MENTALLY ILL.

29 E. Each human rights committee, IF APPROPRIATE, shall include at least  
30 two parents of children who receive behavioral health services pursuant to  
31 title 36, chapter 34.

32 F. Each human rights committee shall include at least ~~two members~~ ONE  
33 MEMBER who ~~are~~ IS A current or former ~~clients~~ CLIENT of the behavioral health  
34 system.

35 G. CURRENT OR FORMER PROVIDERS OR EMPLOYEES OF PROVIDERS THAT HAVE  
36 CONTRACTED WITH A REGIONAL BEHAVIORAL HEALTH AUTHORITY MAY SERVE ON A HUMAN  
37 RIGHTS COMMITTEE.

38 H. THE DEPARTMENT OF HEALTH SERVICES SHALL ENSURE THAT EACH REGIONAL  
39 BEHAVIORAL HEALTH AUTHORITY AND ITS PROVIDERS DEVELOP AND IMPLEMENT A HUMAN  
40 RIGHTS TRAINING PLAN TO ENSURE THAT PROVIDERS ARE TRAINED REGARDING CLIENTS'  
41 HUMAN RIGHTS AND THE DUTIES OF THE HUMAN RIGHTS COMMITTEES.

42 ~~G.~~ I. Each committee shall be organized pursuant to this section and  
43 the requirements of section 41-3804.

1 Sec. 2. Section 41-3804, Arizona Revised Statutes, is amended to read:  
2 41-3804. Human rights committees: membership; duties; client  
3 information; immunity; violation; classification

4 A. Subject to the approval of the appropriate department director,  
5 each committee established pursuant to this article shall adopt guidelines  
6 that govern its operation, including terms of members, quorum and attendance  
7 requirements and removal of a committee member if necessary. Each committee  
8 shall adopt these guidelines by majority vote within the first three months  
9 of its formation. These guidelines shall not conflict with this article.  
10 The director of the appropriate department shall approve the guidelines  
11 unless they are inconsistent with the department's statutes, policies,  
12 procedures or rules, or if the ~~guideline does~~ GUIDELINES DO not promote  
13 participation by all interested members of the community that the committee  
14 serves. In addition to the procedures in the guidelines, each human rights  
15 committee must approve the removal of any committee member on majority vote  
16 of the committee.

17 B. Employees of the department of economic security, the department of  
18 child safety, ~~and~~ the department of health services AND THE ARIZONA HEALTH  
19 CARE COST CONTAINMENT SYSTEM ADMINISTRATION MAY serve on a committee only as  
20 nonvoting members whose presence is not counted for the purpose of  
21 determining a quorum.

22 C. Advocacy groups, local advisory councils, committee members and the  
23 director of the appropriate department may submit names of candidates to fill  
24 committee vacancies. The appropriate director shall appoint a person to fill  
25 a vacancy subject to the approval of the committee.

26 D. Each committee shall meet at least quarterly each calendar year.

27 E. Each committee shall provide independent oversight to:

28 1. Ensure that the rights of clients are protected.

29 ~~2. Provide research in that committee's field.~~

30 ~~3.~~ 2. Review incidents of possible abuse, neglect or denial of a  
31 client's rights.

32 3. MAKE RECOMMENDATIONS TO THE APPROPRIATE DEPARTMENT DIRECTOR AND THE  
33 LEGISLATURE REGARDING LAWS, RULES, POLICIES, PROCEDURES AND PRACTICES TO  
34 ENSURE THE PROTECTION OF THE RIGHTS OF CLIENTS RECEIVING BEHAVIORAL HEALTH  
35 AND DEVELOPMENTAL DISABILITY SERVICES.

36 F. Each committee shall submit written objections to specific problems  
37 or violations of client rights by department employees or service providers  
38 to the director of the appropriate department for review. THE APPROPRIATE  
39 DEPARTMENT DIRECTOR SHALL RESPOND, IN WRITING, TO WRITTEN OBJECTIONS WITHIN  
40 TWENTY-ONE DAYS AFTER RECEIVING THE OBJECTIONS.

41 G. Each committee shall issue an annual report of its activities and  
42 recommendations for changes to the director of the appropriate department,  
43 THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND  
44 THE CHAIRPERSONS OF THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND THE  
45 HOUSE OF REPRESENTATIVES HEALTH COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

1 H. A committee may request from the appropriate department the  
2 services of a consultant or department employee to advise it on specific  
3 issues. The consultant may be a member of another human rights committee, a  
4 department employee or a service provider. Subject to the availability of  
5 monies, the appropriate department shall assume the cost of the consultant.  
6 A consultant shall not participate in committee votes.

7 I. Subject to federal law, committee members and consultants have  
8 access to client information and records, INCLUDING QUALITY OF CARE REPORTS  
9 AND, ON REQUEST, CASE PRESENTATIONS, ADULT PROTECTIVE SERVICES INVESTIGATION  
10 CASE STATUS AND OUTCOMES, SUBSTANTIATIONS, RECOMMENDATIONS AND OTHER QUALITY  
11 OF CARE FINDINGS FROM PEER REVIEWS OR ANY SUCCESSOR REPORT OR PROCESS,  
12 maintained by the appropriate department, provider or regional behavioral  
13 health authorities to the extent necessary to conduct committee duties. Each  
14 person who receives information or records pursuant to this subsection shall  
15 maintain the information or records as confidential and sign an agreement to  
16 comply with all confidentiality requirements. Any client information or  
17 records shall be released to the committee without the designation of  
18 personally identifiable information unless the personally identifiable  
19 information is required for the official purposes of the committee. FOR THE  
20 PURPOSES OF THIS SUBSECTION, "personally identifiable information" includes A  
21 PERSON'S name, address, date of birth, social security number, tribal  
22 enrollment number, telephone or ~~telefacsimile~~ FAX number, E-MAIL ADDRESS,  
23 SOCIAL MEDIA IDENTIFIER, driver license number, places of employment, ~~or~~  
24 school identification or military identification number or any other  
25 distinguishing characteristic that tends to identify a particular person. A  
26 violation of this subsection is a class 2 misdemeanor.

27 J. If a committee's request for information or records from a  
28 department is denied, the committee may request in writing that the director  
29 of the appropriate department review this decision. The agency director or  
30 designee shall conduct the review within five business days after receiving  
31 the request for review. The agency shall bear the costs of conducting the  
32 review. A final agency decision made pursuant to this subsection is subject  
33 to judicial review pursuant to title 12, chapter 7, article 6. The agency  
34 shall not release any information or records during the period an appeal may  
35 be filed or is pending.

36 K. Confidential records and information received by the committee or  
37 its consultant are subject to the same provisions concerning subpoenas,  
38 discovery and use in legal actions as are the original records and  
39 information.

40 L. THE HUMAN RIGHTS COMMITTEES MAY EXCHANGE INFORMATION AND ENGAGE IN  
41 PLANNING AND COORDINATION ACTIVITIES BETWEEN COMMITTEE MEMBERS IN THE  
42 PERFORMANCE OF COMMITTEE DUTIES PURSUANT TO THIS SECTION.

43 M. THE HUMAN RIGHTS COMMITTEES MAY ENCOURAGE PUBLIC AWARENESS AND  
44 INVOLVEMENT IN THEIR ACTIVITIES BY SUPPORTING COMMITTEE MEMBERS WITH  
45 AFFILIATION AGREEMENTS WITH POSTSECONDARY EDUCATION-SPONSORED INTERNSHIP

1 PLACEMENTS PURSUANT TO THE APPROPRIATE DEPARTMENT'S APPROVED OPERATING  
2 PROCEDURES.

3 N. THE APPROPRIATE DEPARTMENTS SHALL COORDINATE EDUCATION AND TRAINING  
4 PROGRAMS FOR COMMITTEE MEMBERS TO FACILITATE THEIR ROLE AS HUMAN RIGHTS  
5 COMMITTEE MEMBERS. THE APPROPRIATE DEPARTMENTS SHALL COORDINATE STATEWIDE  
6 MEETINGS OF COMMITTEES AT LEAST EVERY TWO YEARS AND PROVIDE STAFF FOR THE  
7 COMMITTEES.

8 ~~0.~~ 0. Any person who, in good faith and without malice and in  
9 connection with duties or functions of a committee established pursuant to  
10 this article, takes an action or makes a decision or recommendation as a  
11 member or agent of a committee or who furnishes records, information or  
12 assistance that is related to the duties of a committee is not subject to  
13 liability for civil damages in consequence of that action. The court shall  
14 determine the presence of malice by clear and convincing evidence.

15 P. TITLE 38, CHAPTER 3, ARTICLE 8, RELATING TO CONFLICT OF INTEREST,  
16 APPLIES TO ALL COMMITTEE MEMBERS.