

REFERENCE TITLE: **intermediate care facilities; licensure**

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1211

Introduced by
Senators Carter: Brophy McGee

AN ACT

AMENDING SECTIONS 8-804, 36-401 AND 36-424, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-425.05; AMENDING SECTION 36-551, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 286, SECTION 6; AMENDING SECTION 36-551, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 251, SECTION 1; AMENDING SECTION 36-591, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 286, SECTION 9; AMENDING SECTION 36-591, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 251, SECTION 2; AMENDING SECTIONS 41-619.57 AND 46-459, ARIZONA REVISED STATUTES; RELATING TO INTERMEDIATE CARE FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-804, Arizona Revised Statutes, is amended to
3 read:

4 8-804. Central registry; notification; definition

5 A. The department shall maintain a central registry of reports of
6 child abuse and neglect that are substantiated and the outcome of the
7 investigation of these reports made under this article. A finding made by
8 a court pursuant to section 8-844, subsection C that a child is dependent
9 based on an allegation of abuse or neglect shall be recorded as a
10 substantiated finding of abuse or neglect. The department shall
11 incorporate duplicate reports on the same incident in the original report
12 and shall not classify duplicate reports as new reports.

13 B. The department shall conduct central registry background checks
14 and shall use the information contained in the central registry only for
15 the following purposes:

16 1. As a factor to determine qualifications for foster home
17 licensing, adoptive parent certification, individuals who apply for child
18 welfare agency licensing, child care home certification, registration of
19 unregulated child care homes with the child care resource and referral
20 system, and home and community based services certification for services
21 to children or vulnerable adults.

22 2. As a factor to determine qualifications for persons who are
23 employed or who are applying for employment with this state in positions
24 that provide direct service to children or vulnerable adults.

25 3. As a factor to determine qualifications for individuals who are
26 employed or who are applying for employment with a child welfare agency in
27 positions that provide direct service to children or vulnerable adults.

28 4. As a factor to determine qualifications for positions that
29 provide direct service to children or vulnerable adults for:

30 (a) Any person who applies for a contract with this state and that
31 person's employees.

32 (b) All employees of a contractor.

33 (c) A subcontractor of a contractor and the subcontractor's
34 employees.

35 (d) Prospective employees of the contractor or subcontractor at the
36 request of the prospective employer.

37 5. ~~Beginning August 1, 2013,~~ To provide information to licensees
38 that do not contract with this state regarding persons who are employed or
39 seeking employment to provide direct services to children pursuant to
40 title 36, chapter 7.1.

41 6. To identify and review reports concerning individual children
42 and families, in order to facilitate the assessment of safety and risk.

43 7. To determine the nature and scope of child abuse and neglect in
44 this state and to provide statewide statistical and demographic
45 information concerning trends in child abuse and neglect.

1 8. To allow comparisons of this state's statistical data with
2 national data.

3 9. To comply with section 8-804.01, subsection B.

4 10. TO PROVIDE INFORMATION TO LICENSEES REGARDING PERSONS WHO ARE
5 EMPLOYED OR SEEKING EMPLOYMENT IN AN INTERMEDIATE CARE FACILITY FOR
6 INDIVIDUALS WITH INTELLECTUAL DISABILITIES.

7 C. ~~Beginning August 1, 2013,~~ Licensees that do not contract with
8 the state and that employ persons who provide direct services to children
9 pursuant to title 36, chapter 7.1 must submit to the department of child
10 safety in a manner prescribed by the department of child safety
11 information necessary to conduct central registry background checks. The
12 department of health services shall verify whether licensees, pursuant to
13 title 36, chapter 7.1, have complied with the requirements of this
14 subsection and any rules adopted by the department of health services to
15 implement this subsection.

16 D. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
17 SECTION, LICENSEES THAT EMPLOY PERSONS TO PROVIDE DIRECT CARE IN AN
18 INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES
19 MUST SUBMIT TO THE DEPARTMENT OF CHILD SAFETY IN A MANNER PRESCRIBED BY
20 THE DEPARTMENT OF CHILD SAFETY INFORMATION NECESSARY TO CONDUCT CENTRAL
21 REGISTRY BACKGROUND CHECKS. THE DEPARTMENT OF HEALTH SERVICES SHALL
22 VERIFY WHETHER THE LICENSEES, PURSUANT TO TITLE 36, CHAPTER 4, COMPLY WITH
23 THE REQUIREMENT OF THIS SUBSECTION AND ANY RULES ADOPTED BY THE DEPARTMENT
24 OF HEALTH SERVICES TO IMPLEMENT THIS SUBSECTION.

25 ~~D.~~ E. If the department of economic security received a report
26 before September 1, 1999 and determined that the report was substantiated,
27 the department of child safety shall maintain the report in the central
28 registry until eighteen years from the child victim's date of birth.

29 ~~E.~~ F. If the department of economic security or the department of
30 child safety received a report on or after September 1, 1999 and
31 determined that the report was substantiated, the department of child
32 safety shall maintain the report in the central registry for a maximum of
33 twenty-five years after the date of the report. If the department of
34 child safety maintains reports in the central registry for less than
35 twenty-five years, the department shall adopt rules to designate the
36 length of time it must maintain those reports in the central registry.

37 ~~F.~~ G. The department shall annually purge reports and
38 investigative outcomes received pursuant to the time frames prescribed in
39 subsections ~~D~~ E and ~~E~~ F of this section.

40 ~~G.~~ H. Any person who was the subject of a department investigation
41 may request confirmation that the department has purged information about
42 the person pursuant to subsection ~~F~~ G of this section. On receipt of
43 this request, the department shall provide the person with written
44 confirmation that the department has no record containing identifying
45 information about that person.

1 ~~H.~~ I. The department shall notify a person, contractor or licensee
2 identified in subsection B, paragraph 4, subdivisions (a), (b) and (c) and
3 subsection B, ~~paragraph~~ PARAGRAPHS 5 AND 10 of this section who is
4 disqualified because of a central registry check conducted pursuant to
5 subsection B of this section that the person may apply to the board of
6 fingerprinting for a central registry exception pursuant to section
7 41-619.57.

8 ~~I.~~ J. Before being employed in a position that provides direct
9 services to children or vulnerable adults pursuant to subsection B,
10 paragraphs 4, ~~and~~ 5 AND 10 or ~~subsection~~ SUBSECTIONS C AND D of this
11 section, employees shall certify, under penalty of perjury, on forms that
12 are provided by the department whether an allegation of abuse or neglect
13 was made against them and was substantiated. The forms are confidential.
14 If this certification does not indicate a current investigation or a
15 substantiated report of abuse or neglect, the employee may provide direct
16 services pending the findings of the central registry check.

17 ~~J.~~ K. A person who is granted a central registry exception
18 pursuant to section 41-619.57 is not entitled to a contract, employment,
19 licensure, certification or other benefit because the person has been
20 granted a central registry exception.

21 ~~K.~~ L. An agency of this state that conducts central registry
22 background checks as a factor to determine qualifications for positions
23 that provide direct services to children or vulnerable adults shall
24 publish a list of disqualifying acts of substantiated abuse or neglect.

25 ~~L.~~ M. An agency of this state that conducts central registry
26 background checks may provide information contained in the central
27 registry on all reports of child abuse and neglect that are substantiated
28 and the outcomes of the investigations of the reports to carry out ~~the~~
29 ~~provisions of~~ this section. Identifying information regarding any person
30 other than the perpetrator may not be released. Information received
31 pursuant to this section may not be further disseminated unless authorized
32 by law or court order.

33 N. FOR THE PURPOSES OF THIS SECTION, "INTERMEDIATE CARE FACILITY
34 FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES" HAS THE SAME MEANING
35 PRESCRIBED IN SECTION 36-551.

36 Sec. 2. Section 36-401, Arizona Revised Statutes, is amended to
37 read:

38 36-401. Definitions; adult foster care

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

40 1. "Accredited health care institution" means a health care
41 institution, other than a hospital, that is currently accredited by a
42 nationally recognized accreditation organization.

43 2. "Accredited hospital" means a hospital that is currently
44 accredited by a nationally recognized organization on hospital
45 accreditation.

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

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

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

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

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

25 8. "Assisted living facility" means a residential care institution,
26 including an adult foster care home, that provides or contracts to provide
27 supervisory care services, personal care services or directed care
28 services on a continuous basis.

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

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

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

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

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

40 12. "Continuous" means available at all times without cessation,
41 break or interruption.

- 1 13. "Controlling person" means a person who:
2 (a) Through ownership, has the power to vote at least ten percent
3 of the outstanding voting securities.
4 (b) If the applicant or licensee is a partnership, is the general
5 partner or a limited partner who holds at least ten percent of the voting
6 rights of the partnership.
7 (c) If the applicant or licensee is a corporation, an association
8 or a limited liability company, is the president, the chief executive
9 officer, the incorporator or any person who owns or controls at least ten
10 percent of the voting securities. For the purposes of this subdivision,
11 corporation does not include nonprofit corporations.
12 (d) Holds a beneficial interest in ten percent or more of the
13 liabilities of the applicant or the licensee.
14 14. "Department" means the department of health services.
15 15. "Directed care services" means programs and services, including
16 supervisory and personal care services, that are provided to persons who
17 are incapable of recognizing danger, summoning assistance, expressing need
18 or making basic care decisions.
19 16. "Direction" means authoritative policy or procedural guidance
20 for the accomplishment of a function or activity.
21 17. "Director" means the director of the department of health
22 services.
23 18. "Facilities" means buildings that are used by a health care
24 institution for providing any of the types of services as defined in this
25 chapter.
26 19. "Freestanding urgent care center":
27 (a) Means an outpatient treatment center that, regardless of its
28 posted or advertised name, meets any of the following requirements:
29 (i) Is open twenty-four hours a day, excluding at its option
30 weekends or certain holidays, but is not licensed as a hospital.
31 (ii) Claims to provide unscheduled medical services not otherwise
32 routinely available in primary care physician offices.
33 (iii) By its posted or advertised name, gives the impression to the
34 public that it provides medical care for urgent, immediate or emergency
35 conditions.
36 (iv) Routinely provides ongoing unscheduled medical services for
37 more than eight consecutive hours for an individual patient.
38 (b) Does not include the following:
39 (i) A medical facility that is licensed under a hospital's license
40 and that uses the hospital's medical provider number.
41 (ii) A qualifying community health center pursuant to section
42 36-2907.06.
43 (iii) Any other health care institution licensed pursuant to this
44 chapter.

1 (iv) A physician's office that offers extended hours or same-day
2 appointments to existing and new patients and that does not meet the
3 requirements of subdivision (a), item (i), (iii) or (iv) of this
4 paragraph.

5 20. "Governing authority" means the individual, agency, partners,
6 group or corporation, appointed, elected or otherwise designated, in which
7 the ultimate responsibility and authority for the conduct of the health
8 care institution are vested.

9 21. "Health care institution" means every place, institution,
10 building or agency, whether organized for profit or not, that provides
11 facilities with medical services, nursing services, behavioral health
12 services, health screening services, other health-related services,
13 supervisory care services, personal care services or directed care
14 services and includes home health agencies as defined in section 36-151,
15 outdoor behavioral health care programs and hospice service agencies.
16 Health care institution does not include a community residential setting
17 as defined in section 36-551.

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

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

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

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

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

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

34 28. "INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL
35 DISABILITIES" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-551.

36 ~~28.~~ 29. "Licensed capacity" means the total number of persons for
37 whom the health care institution is authorized by the department to
38 provide services as required pursuant to this chapter if the person is
39 expected to stay in the health care institution for more than twenty-four
40 hours. For a hospital, licensed capacity means only those beds specified
41 on the hospital license.

42 ~~29.~~ 30. "Medical services" means the services that pertain to
43 medical care and that are performed at the direction of a physician on
44 behalf of patients by physicians, dentists, nurses and other professional
45 and technical personnel.

1 ~~30.~~ 31. "Modification" means the substantial improvement,
2 enlargement, reduction or alteration of or other change in a health care
3 institution.

4 ~~31.~~ 32. "Nonproprietary institution" means any health care
5 institution that is organized and operated exclusively for charitable
6 purposes, no part of the net earnings of which inures to the benefit of
7 any private shareholder or individual, or that is operated by the state or
8 any political subdivision of the state.

9 ~~32.~~ 33. "Nursing care institution" means a health care institution
10 that provides inpatient beds or resident beds and nursing services to
11 persons who need continuous nursing services but who do not require
12 hospital care or direct daily care from a physician.

13 ~~33.~~ 34. "Nursing services" means those services that pertain to the
14 curative, restorative and preventive aspects of nursing care and that are
15 performed at the direction of a physician by or under the supervision of a
16 registered nurse licensed in this state.

17 ~~34.~~ 35. "Organized medical staff" means a formal organization of
18 physicians, and dentists where appropriate, with the delegated authority
19 and responsibility to maintain proper standards of medical care and to
20 plan for continued betterment of that care.

21 ~~35.~~ 36. "Outdoor behavioral health care program" means an agency
22 that provides behavioral health services in an outdoor environment as an
23 alternative to behavioral health services that are provided in a health
24 care institution with facilities. Outdoor behavioral health care programs
25 do not include:

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

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

32 (c) Outdoor youth programs licensed by the department of economic
33 security.

34 ~~36.~~ 37. "Personal care services" means assistance with activities
35 of daily living that can be performed by persons without professional
36 skills or professional training and includes the coordination or provision
37 of intermittent nursing services and the administration of medications and
38 treatments by a nurse who is licensed pursuant to title 32, chapter 15 or
39 as otherwise provided by law.

40 ~~37.~~ 38. "Physician" means any person who is licensed pursuant to
41 title 32, chapter 13 or 17.

42 ~~38.~~ 39. "Recidivism reduction services" means services that are
43 delivered by an adult residential care institution to its residents to
44 encourage lawful behavior and to discourage or prevent residents who are
45 suspected of, charged with or convicted of one or more criminal offenses,

1 or whose mental health and substance use can be reasonably expected to
2 place them at risk for the future threat of prosecution, diversion or
3 incarceration, from engaging in future unlawful behavior.

4 ~~39.~~ 40. "Recidivism reduction staff" means a person who provides
5 recidivism reduction services.

6 ~~40.~~ 41. "Residential care institution" means a health care
7 institution other than a hospital or a nursing care institution that
8 provides resident beds or residential units, supervisory care services,
9 personal care services, behavioral health services, directed care services
10 or health-related services for persons who do not need continuous nursing
11 services.

12 ~~41.~~ 42. "Residential unit" means a private apartment, unless
13 otherwise requested by a resident, that includes a living and sleeping
14 space, kitchen area, private bathroom and storage area.

15 ~~42.~~ 43. "Respite care services" means services that are provided by
16 a licensed health care institution to persons otherwise cared for in
17 foster homes and in private homes to provide an interval of rest or relief
18 of not more than thirty days to operators of foster homes or to family
19 members.

20 ~~43.~~ 44. "Substantial compliance" means that the nature or number of
21 violations revealed by any type of inspection or investigation of a health
22 care institution does not pose a direct risk to the life, health or safety
23 of patients or residents.

24 ~~44.~~ 45. "Supervision" means direct overseeing and inspection of the
25 act of accomplishing a function or activity.

26 ~~45.~~ 46. "Supervisory care services" means general supervision,
27 including daily awareness of resident functioning and continuing needs,
28 the ability to intervene in a crisis and assistance in the
29 self-administration of prescribed medications.

30 ~~46.~~ 47. "Temporary license" means a license that is issued by the
31 department to operate a class or subclass of a health care institution at
32 a specific location and that is valid until an initial licensing
33 inspection.

34 ~~47.~~ 48. "Unscheduled medical services" means medically necessary
35 periodic health care services that are unanticipated or cannot reasonably
36 be anticipated and that require medical evaluation or treatment before the
37 next business day.

38 B. If there are fewer than four Arizona long-term care system
39 participants receiving adult foster care in an adult foster care home,
40 nonparticipating adults may receive other types of services that are
41 authorized by law to be provided in the adult foster care home as long as
42 the number of adults served, including the Arizona long-term care system
43 participants, does not exceed four.

44 C. Nursing care services may be provided by the adult foster care
45 licensee if the licensee is a nurse who is licensed pursuant to title 32,

1 chapter 15 and the services are limited to those allowed pursuant to law.
2 The licensee shall keep a record of nursing services rendered.

3 Sec. 3. Section 36-424, Arizona Revised Statutes, is amended to
4 read:

5 36-424. Inspections; suspension or revocation of license;
6 report to board of examiners of nursing care
7 institution administrators

8 A. Subject to the ~~limitation~~ LIMIT prescribed by subsection B of
9 this section, the director shall inspect the premises of the health care
10 institution and investigate the character and other qualifications of the
11 applicant to ascertain whether the applicant and the health care
12 institution are in substantial compliance with the requirements of this
13 chapter and the rules established pursuant to this chapter. The director
14 may prescribe rules regarding department background investigations into an
15 applicant's character and qualifications.

16 B. The director shall accept proof that a health care institution
17 is an accredited hospital or is an accredited health care institution in
18 lieu of all compliance inspections required by this chapter if the
19 director receives a copy of the institution's accreditation report for the
20 licensure period. If the health care institution's accreditation report
21 is not valid for the entire licensure period, the department may conduct a
22 compliance inspection of the health care institution during the time
23 period the department does not have a valid accreditation report for the
24 health care institution. **THE DIRECTOR MAY NOT ACCEPT AN ACCREDITATION**
25 **REPORT IN LIEU OF ANY LICENSURE OR COMPLIANCE INSPECTION OF AN**
26 **INTERMEDIATE CARE FACILITY FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES.**

27 C. On a determination by the director that there is reasonable
28 cause to believe a health care institution is not adhering to the
29 licensing requirements of this chapter, the director and any duly
30 designated employee or agent of the director, including county health
31 representatives and county or municipal fire inspectors, consistent with
32 standard medical practices, may enter on and into the premises of any
33 health care institution that is licensed or required to be licensed
34 pursuant to this chapter at any reasonable time for the purpose of
35 determining the state of compliance with this chapter, the rules adopted
36 pursuant to this chapter and local fire ordinances or rules. Any
37 application for licensure under this chapter constitutes permission for
38 and complete acquiescence in any entry or inspection of the premises
39 during the pendency of the application and, if licensed, during the term
40 of the license. If an inspection reveals that the health care institution
41 is not adhering to the licensing requirements established pursuant to this
42 chapter, the director may take action authorized by this chapter. Any
43 health care institution, including an accredited hospital, whose license
44 has been suspended or revoked in accordance with this section is subject
45 to inspection on application for relicensure or reinstatement of license.

1 D. The director shall immediately report to the board of examiners
2 of nursing care institution administrators information identifying that a
3 nursing care institution administrator's conduct may be grounds for
4 disciplinary action pursuant to section 36-446.07.

5 Sec. 4. Title 36, chapter 4, article 2, Arizona Revised Statutes,
6 is amended by adding section 36-425.05, to read:

7 36-425.05. Intermediate care facilities for individuals with
8 intellectual disabilities; licensure

9 ON OR BEFORE JANUARY 1, 2020, AN INTERMEDIATE CARE FACILITY FOR
10 INDIVIDUALS WITH INTELLECTUAL DISABILITIES THAT IS OPERATED BY THE
11 DEPARTMENT OF ECONOMIC SECURITY OR A PRIVATE ENTITY SHALL BE LICENSED
12 PURSUANT TO THIS CHAPTER AND CERTIFIED PURSUANT TO 42 CODE OF FEDERAL
13 REGULATIONS PART 483, SUBPART I.

14 Sec. 5. Section 36-551, Arizona Revised Statutes, as amended by
15 Laws 2016, chapter 286, section 6, is amended to read:

16 36-551. Definitions

17 In this chapter, unless the context otherwise requires:

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

21 2. "Adult developmental home" means a residential setting in a
22 family home in which the care, physical custody and supervision of the
23 adult client are the responsibility, under a twenty-four-hour care model,
24 of the licensee who, in that capacity, is not an employee of the division
25 or of a service provider and the home provides the following services for
26 a group of siblings or up to three adults with developmental disabilities:

- 27 (a) Room and board.
- 28 (b) Habilitation.
- 29 (c) Appropriate personal care.
- 30 (d) Appropriate supervision.

31 3. "Adult household member" means a person who is at least eighteen
32 years of age and who resides in an adult developmental home, child
33 developmental home or other home and community based service setting for
34 at least thirty days or who resides in the household throughout the year
35 for more than a cumulative total of thirty days.

36 4. "Advisory council" means the developmental disabilities advisory
37 council.

38 5. "Arizona training program facility" means a state-operated
39 institution for clients of the department with developmental disabilities.

40 6. "Attributable to cognitive disability, epilepsy, cerebral palsy
41 or autism" means that there is a causal relationship between the presence
42 of an impairing condition and the developmental disability.

43 7. "Autism" means a condition characterized by severe disorders in
44 communication and behavior resulting in limited ability to communicate,
45 understand, learn and participate in social relationships.

1 8. "Case management" means coordinating the assistance needed by
2 persons with developmental disabilities and their families in order to
3 ensure that persons with developmental disabilities attain their maximum
4 potential for independence, productivity and integration into the
5 community.

6 9. "Case manager" means a person who coordinates the implementation
7 of the individual program plan of goals, objectives and appropriate
8 services for persons with developmental disabilities.

9 10. "Cerebral palsy" means a permanently disabling condition
10 resulting from damage to the developing brain that may occur before, after
11 or during birth and that results in loss or impairment of control over
12 voluntary muscles.

13 11. "Child developmental certified home" means a regular foster
14 home as defined in section 8-501 that is licensed pursuant to section
15 8-509 and that is certified by the department pursuant to section
16 36-593.01.

17 12. "Child developmental home" means a residential setting in a
18 family home in which the care and supervision of the child are the
19 responsibility, under a twenty-four-hour care model, of the licensee who
20 serves as the developmental home provider of the child in the home setting
21 and who, in that capacity, is not an employee of the division or of a
22 service provider and the home provides the following services for a group
23 of siblings or up to three children with developmental disabilities:

- 24 (a) Room and board.
- 25 (b) Habilitation.
- 26 (c) Appropriate personal care.
- 27 (d) Appropriate supervision.

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

30 14. "Cognitive disability" means a condition that involves
31 subaverage general intellectual functioning, that exists concurrently with
32 deficits in adaptive behavior manifested before the age of eighteen and
33 that is sometimes referred to as intellectual disability.

34 15. "Community residential setting" means a residential setting in
35 which persons with developmental disabilities live and are provided with
36 appropriate supervision by the service provider responsible for the
37 operation of the residential setting. Community residential setting
38 includes a child developmental home or an adult developmental home
39 operated or contracted by the department or the department's contracted
40 vendor or a group home operated or contracted by the department.

41 16. "Consent" means voluntary informed consent. Consent is
42 voluntary if not given as the result of coercion or undue influence.
43 Consent is informed if the person giving the consent has been informed of
44 and comprehends the nature, purpose, consequences, risks and benefits of
45 the alternatives to the procedure, and has been informed and comprehends

1 that withholding or withdrawal of consent will not prejudice the future
2 provision of care and services to the client. In cases of unusual or
3 hazardous treatment procedures performed pursuant to section 36-561,
4 subsection A, experimental research, organ transplantation and
5 nontherapeutic surgery, consent is informed if, in addition to the
6 foregoing, the person giving the consent has been informed of and
7 comprehends the method to be used in the proposed procedure.

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

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

12 19. "Developmental disability" means either a strongly demonstrated
13 potential that a child under six years of age has a developmental
14 disability or will develop a developmental disability, as determined by a
15 test performed pursuant to section 36-694 or by other appropriate tests,
16 or a severe, chronic disability that:

17 (a) Is attributable to cognitive disability, cerebral palsy,
18 epilepsy or autism.

19 (b) Is manifested before the age of eighteen.

20 (c) Is likely to continue indefinitely.

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

23 (i) Self-care.

24 (ii) Receptive and expressive language.

25 (iii) Learning.

26 (iv) Mobility.

27 (v) Self-direction.

28 (vi) Capacity for independent living.

29 (vii) Economic self-sufficiency.

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

34 20. "Director" means the director of the department of economic
35 security.

36 21. "Division" means the division of developmental disabilities in
37 the department of economic security.

38 22. "Epilepsy" means a neurological condition characterized by
39 abnormal electrical-chemical discharge in the brain. This discharge is
40 manifested in various forms of physical activities called seizures.

41 23. "Group home" means a community residential setting for not more
42 than six persons with developmental disabilities that is operated by a
43 service provider under contract with the department and that provides room
44 and board and daily habilitation, and other assessed medically necessary
45 services and supports to meet the needs of each person. Group home does

1 not include an adult developmental home, a child developmental home or an
2 intermediate care facility for ~~persons~~ INDIVIDUALS with ~~an~~ intellectual
3 ~~disability~~ DISABILITIES.

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

7 25. "Habilitation" means the process by which a person is assisted
8 to acquire and maintain those life skills that enable the person to cope
9 more effectively with personal and environmental demands and to raise the
10 level of the person's physical, mental and social efficiency.

11 26. "Indigent" means a person with a developmental disability whose
12 estate or parent is unable to bear the full cost of maintaining or
13 providing services for that person in a developmental disabilities
14 program.

15 27. "Individual program plan" means a written statement of services
16 to be provided to a person with developmental disabilities, including
17 habilitation goals and objectives, that is developed following initial
18 placement evaluation and revised after periodic evaluations.

19 28. "Intermediate care facility for ~~persons~~ INDIVIDUALS with ~~an~~
20 intellectual ~~disability~~ DISABILITIES" means a facility that primarily
21 provides health and rehabilitative services to persons with developmental
22 disabilities that are above the service level of room and board or
23 supervisory care services or personal care services as defined in section
24 36-401 but that are less intensive than skilled nursing services.

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

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

34 31. "Likely to continue indefinitely" means that the developmental
35 disability has a reasonable likelihood of continuing for a protracted
36 period of time or for life.

37 32. "Manifested before the age of eighteen" means that the
38 disability must be apparent and have a substantially limiting effect on a
39 person's functioning before the age of eighteen.

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

42 34. "Placement evaluation" means an interview and evaluation of a
43 person with a developmental disability and a review of the person's prior
44 medical and program histories to determine the appropriate developmental

1 disability programs and services for the person and recommendations for
2 specific program placements for the person.

3 35. "Psychologist" means a person who is licensed pursuant to
4 title 32, chapter 19.1.

5 36. "Respite services" means services that provide a short-term or
6 long-term interval of rest or relief to the care provider of a person with
7 a developmental disability.

8 37. "Responsible person" means the parent or guardian of a minor
9 with a developmental disability, the guardian of an adult with a
10 developmental disability or an adult with a developmental disability who
11 is a client or an applicant for whom no guardian has been appointed.

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

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

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

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

26 42. "Supervision" means the process by which the activities of an
27 individual with developmental disabilities are directed, influenced or
28 monitored.

29 Sec. 6. Section 36-551, Arizona Revised Statutes, as amended by
30 Laws 2018, chapter 251, section 1, is amended effective from and after
31 June 30, 2019, to read:

32 36-551. Definitions

33 In this chapter, unless the context otherwise requires:

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

37 2. "Adult developmental home" means a residential setting in a
38 family home in which the care, physical custody and supervision of the
39 adult client are the responsibility, under a twenty-four-hour care model,
40 of the licensee who, in that capacity, is not an employee of the division
41 or of a service provider and the home provides the following services for
42 a group of siblings or up to three adults with developmental disabilities:

43 (a) Room and board.

44 (b) Habilitation.

45 (c) Appropriate personal care.

1 (d) Appropriate supervision.

2 3. "Adult household member":

3 (a) Means a person who is at least eighteen years of age and who
4 resides in an adult developmental home, child developmental home or other
5 home and community based service setting for at least thirty days or who
6 resides in the household throughout the year for more than a cumulative
7 total of thirty days.

8 (b) Does not include a person who is receiving developmental
9 disabilities services from the department.

10 4. "Advisory council" means the developmental disabilities advisory
11 council.

12 5. "Arizona training program facility" means a state-operated
13 institution for clients of the department with developmental disabilities.

14 6. "Attributable to cognitive disability, epilepsy, cerebral palsy
15 or autism" means that there is a causal relationship between the presence
16 of an impairing condition and the developmental disability.

17 7. "Autism" means a condition characterized by severe disorders in
18 communication and behavior resulting in limited ability to communicate,
19 understand, learn and participate in social relationships.

20 8. "Case management" means coordinating the assistance needed by
21 persons with developmental disabilities and their families in order to
22 ensure that persons with developmental disabilities attain their maximum
23 potential for independence, productivity and integration into the
24 community.

25 9. "Case manager" means a person who coordinates the implementation
26 of the individual program plan of goals, objectives and appropriate
27 services for persons with developmental disabilities.

28 10. "Cerebral palsy" means a permanently disabling condition
29 resulting from damage to the developing brain that may occur before, after
30 or during birth and that results in loss or impairment of control over
31 voluntary muscles.

32 11. "Child developmental certified home" means a regular foster
33 home as defined in section 8-501 that is licensed pursuant to section
34 8-509 and that is certified by the department pursuant to section
35 36-593.01.

36 12. "Child developmental home" means a residential setting in a
37 family home in which the care and supervision of the child are the
38 responsibility, under a twenty-four-hour care model, of the licensee who
39 serves as the developmental home provider of the child in the home setting
40 and who, in that capacity, is not an employee of the division or of a
41 service provider and the home provides the following services for a group
42 of siblings or up to three children with developmental disabilities:

43 (a) Room and board.

44 (b) Habilitation.

45 (c) Appropriate personal care.

1 (d) Appropriate supervision.

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

4 14. "Cognitive disability" means a condition that involves
5 subaverage general intellectual functioning, that exists concurrently with
6 deficits in adaptive behavior manifested before the age of eighteen and
7 that is sometimes referred to as intellectual disability.

8 15. "Community residential setting" means a residential setting in
9 which persons with developmental disabilities live and are provided with
10 appropriate supervision by the service provider responsible for the
11 operation of the residential setting. Community residential setting
12 includes a child developmental home or an adult developmental home
13 operated or contracted by the department or the department's contracted
14 vendor or a group home operated or contracted by the department.

15 16. "Consent" means voluntary informed consent. Consent is
16 voluntary if not given as the result of coercion or undue influence.
17 Consent is informed if the person giving the consent has been informed of
18 and comprehends the nature, purpose, consequences, risks and benefits of
19 the alternatives to the procedure, and has been informed and comprehends
20 that withholding or withdrawal of consent will not prejudice the future
21 provision of care and services to the client. In cases of unusual or
22 hazardous treatment procedures performed pursuant to section 36-561,
23 subsection A, experimental research, organ transplantation and
24 nontherapeutic surgery, consent is informed if, in addition to the
25 foregoing, the person giving the consent has been informed of and
26 comprehends the method to be used in the proposed procedure.

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

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

31 19. "Developmental disability" means either a strongly demonstrated
32 potential that a child under six years of age has a developmental
33 disability or will develop a developmental disability, as determined by a
34 test performed pursuant to section 36-694 or by other appropriate tests,
35 or a severe, chronic disability that:

36 (a) Is attributable to cognitive disability, cerebral palsy,
37 epilepsy or autism.

38 (b) Is manifested before the age of eighteen.

39 (c) Is likely to continue indefinitely.

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

42 (i) Self-care.

43 (ii) Receptive and expressive language.

44 (iii) Learning.

45 (iv) Mobility.

1 (v) Self-direction.

2 (vi) Capacity for independent living.

3 (vii) Economic self-sufficiency.

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

8 20. "Director" means the director of the department of economic
9 security.

10 21. "Division" means the division of developmental disabilities in
11 the department of economic security.

12 22. "Epilepsy" means a neurological condition characterized by
13 abnormal electrical-chemical discharge in the brain. This discharge is
14 manifested in various forms of physical activities called seizures.

15 23. "Group home" means a community residential setting for not more
16 than six persons with developmental disabilities that is operated by a
17 service provider under contract with the department and that provides room
18 and board and daily habilitation and other assessed medically necessary
19 services and supports to meet the needs of each person. Group home does
20 not include an adult developmental home, a child developmental home or an
21 intermediate care facility for ~~persons~~ INDIVIDUALS with ~~an~~ intellectual
22 ~~disability~~ DISABILITIES.

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

26 25. "Habilitation" means the process by which a person is assisted
27 to acquire and maintain those life skills that enable the person to cope
28 more effectively with personal and environmental demands and to raise the
29 level of the person's physical, mental and social efficiency.

30 26. "Indigent" means a person with a developmental disability whose
31 estate or parent is unable to bear the full cost of maintaining or
32 providing services for that person in a developmental disabilities
33 program.

34 27. "Individual program plan" means a written statement of services
35 to be provided to a person with developmental disabilities, including
36 habilitation goals and objectives, that is developed following initial
37 placement evaluation and revised after periodic evaluations.

38 28. "Intermediate care facility for ~~persons~~ INDIVIDUALS with ~~an~~
39 intellectual ~~disability~~ DISABILITIES" means a facility that primarily
40 provides health and rehabilitative services to persons with developmental
41 disabilities that are above the service level of room and board or
42 supervisory care services or personal care services as defined in section
43 36-401 but that are less intensive than skilled nursing services.

44 29. "Large group setting" means a setting that in addition to
45 residential care provides support services such as therapy, recreation and

1 transportation to seven or more persons with developmental disabilities
2 who require intensive supervision.

3 30. "Least restrictive alternative" means an available program or
4 facility that fosters independent living, that is the least confining for
5 the client's condition and where service and treatment are provided in the
6 least intrusive manner reasonably and humanely appropriate to the
7 individual's needs.

8 31. "Likely to continue indefinitely" means that the developmental
9 disability has a reasonable likelihood of continuing for a protracted
10 period of time or for life.

11 32. "Manifested before the age of eighteen" means that the
12 disability must be apparent and have a substantially limiting effect on a
13 person's functioning before the age of eighteen.

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

16 34. "Placement evaluation" means an interview and evaluation of a
17 person with a developmental disability and a review of the person's prior
18 medical and program histories to determine the appropriate developmental
19 disability programs and services for the person and recommendations for
20 specific program placements for the person.

21 35. "Psychologist" means a person who is licensed pursuant to
22 title 32, chapter 19.1.

23 36. "Respite services" means services that provide a short-term or
24 long-term interval of rest or relief to the care provider of a person with
25 a developmental disability.

26 37. "Responsible person" means the parent or guardian of a minor
27 with a developmental disability, the guardian of an adult with a
28 developmental disability or an adult with a developmental disability who
29 is a client or an applicant for whom no guardian has been appointed.

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

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

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

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

1 Sec. 8. Section 36-591, Arizona Revised Statutes, as amended by
2 Laws 2018, chapter 251, section 2, is amended effective from and after
3 June 30, 2019, to read:

4 36-591. Adult developmental homes; child developmental homes;
5 licensing; notification requirements; exception;
6 annual inspection

7 A. An adult developmental home or child developmental home shall be
8 licensed pursuant to this article.

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

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

13 1. Service providers who enter into contracts with the division for
14 group homes.

15 2. Any violation of health and safety standards observed during
16 monitoring visits.

17 D. The department of health services shall immediately notify the
18 division:

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

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

22 3. Of substantiated complaints regarding health and safety.

23 E. The division shall ensure that state-operated residential
24 settings that are owned or leased facilities operated by the division meet
25 the same standards as group homes unless they are **REQUIRED TO BE LICENSED**
26 **AND** certified as intermediate care facilities for ~~persons~~ **INDIVIDUALS** with
27 ~~an~~ intellectual ~~disability~~ **DISABILITIES** pursuant to 42 Code of Federal
28 Regulations ~~section 483.400~~ **PART 483, SUBPART I**. An intermediate care
29 facility for ~~persons~~ **INDIVIDUALS** with ~~an~~ intellectual ~~disability~~
30 **DISABILITIES** that is operated by the division or a private entity is ~~not~~
31 required to be licensed ~~under this section if the facility is~~ **PURSUANT TO**
32 **CHAPTER 4 OF THIS TITLE AND** certified pursuant to 42 Code of Federal
33 Regulations ~~section 483.400~~ **PART 483, SUBPART I**.

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

1 6. The extent of the person's rehabilitation, including:
2 (a) Evidence of positive action to change the person's behavior,
3 such as completion of counseling or a drug treatment, domestic violence or
4 parenting program.
5 (b) Personal references attesting to the person's rehabilitation.
6 F. If the board grants a central registry exception to a person,
7 the board shall notify the department of child safety, the department of
8 economic security or the department of health services, as appropriate, in
9 writing.
10 G. A person who is granted a central registry exception is not
11 entitled to have the person's report and investigation outcome purged from
12 the central registry except as required pursuant to section 8-804,
13 subsections ~~F~~ and G AND H.
14 H. Pending the outcome of a central registry exception
15 determination, a central registry exception applicant may not provide
16 direct services to children pursuant to title 36, chapter 7.1.
17 I. The board is exempt from chapter 6, article 10 of this title.
18 Sec. 10. Section 46-459, Arizona Revised Statutes, is amended to
19 read:
20 46-459. Adult protective services registry
21 A. The department of economic security shall maintain a registry of
22 substantiated reports of abuse, neglect and exploitation of vulnerable
23 adults made pursuant to section 46-458. The department shall incorporate
24 duplicate reports on the same incident in the original report and shall
25 not classify duplicate reports as new reports.
26 B. The registry shall contain the name and date of birth of the
27 person determined to have abused, neglected or exploited a vulnerable
28 adult, the nature of the allegation made and the date and description of
29 the disposition of the allegation. The names of the vulnerable adult and
30 reporting source shall not be reported to the registry.
31 C. The department shall maintain a report in the registry for
32 twenty-five years after the date of entry.
33 D. The department shall annually purge reports and investigative
34 outcomes received pursuant to the time frames prescribed in subsection C
35 of this section.
36 E. Any person who was the subject of an adult protective services
37 investigation may request confirmation that the department has purged
38 information about the person pursuant to subsection D of this section. On
39 receipt of this request, the department shall provide the person with
40 written confirmation that the department has no record containing
41 identifying information about that person.
42 F. Information maintained pursuant to subsection B of this section
43 shall be made available to the public on written request and online. The
44 department may charge a fee for processing written requests.

1 G. EACH EMPLOYER IN THIS STATE SHALL CONDUCT AN ADULT PROTECTIVE
2 SERVICES REGISTRY BACKGROUND CHECK FOR ANY PERSON WHO IS EMPLOYED OR
3 SEEKING EMPLOYMENT IN A POSITION THAT WORKS WITH CHILDREN OR VULNERABLE
4 ADULTS AND MAY USE THE INFORMATION CONTAINED IN THE ADULT PROTECTIVE
5 SERVICES REGISTRY TO DETERMINE THE FOLLOWING:

6 1. WHETHER THE PERSON IS QUALIFIED FOR HOME AND COMMUNITY BASED
7 SERVICES CERTIFICATION FOR SERVICES PROVIDED TO VULNERABLE ADULTS OR
8 CHILDREN.

9 2. WHETHER THE PERSON WHO IS EMPLOYED OR SEEKING EMPLOYMENT WITH
10 THE DEPARTMENT OF ECONOMIC SECURITY IS QUALIFIED FOR A POSITION THAT
11 PROVIDES DIRECT SERVICES TO VULNERABLE ADULTS OR CHILDREN.

12 3. QUALIFICATIONS FOR POSITIONS THAT PROVIDE DIRECT SERVICES TO
13 VULNERABLE ADULTS OR CHILDREN FOR ANY OF THE FOLLOWING:

14 (a) A PERSON WHO APPLIES FOR A CONTRACT WITH THE DEPARTMENT AND
15 THAT PERSON'S EMPLOYEES.

16 (b) ALL EMPLOYEES OF A CONTRACTOR.

17 (c) A SUBCONTRACTOR OF A CONTRACTOR AND THE SUBCONTRACTOR'S
18 EMPLOYEES.

19 (d) PROSPECTIVE EMPLOYEES OF A CONTRACTOR OR SUBCONTRACTOR AT THE
20 REQUEST OF THE PROSPECTIVE EMPLOYER.

21 H. BEFORE BEING EMPLOYED IN A POSITION THAT PROVIDES DIRECT
22 SERVICES TO VULNERABLE ADULTS OR CHILDREN, PROSPECTIVE EMPLOYEES SHALL
23 CERTIFY UNDER PENALTY OF PERJURY ON A FORM PRESCRIBED BY THE DEPARTMENT
24 WHETHER AN ALLEGATION OF VULNERABLE ADULT ABUSE, NEGLECT OR EXPLOITATION
25 HAS BEEN MADE AGAINST THE PERSON AND WAS SUBSTANTIATED.

26 Sec. 11. Rulemaking; department of health services; exemption

27 A. The department of health services shall adopt rules requiring
28 employees and personnel of an intermediate care facility for individuals
29 with intellectual disabilities to report any abuse or neglect pursuant to
30 section 13-3620, Arizona Revised Statutes, and any abuse, neglect or
31 exploitation pursuant to section 46-454, Arizona Revised Statutes.

32 B. For the purposes of this act, the department of health services
33 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona
34 Revised Statutes, for one year after the effective date of this act.

35 Sec. 12. Emergency

36 This act is an emergency measure that is necessary to preserve the
37 public peace, health or safety and is operative immediately as provided by
38 law.