



## **ARIZONA STATE SENATE**

### ***Fifty-Fourth Legislature, First Regular Session***

#### FACT SHEET FOR S.B. 1211

#### intermediate care facilities; licensure

##### Purpose

An emergency measure that establishes licensing requirements for intermediate care facilities for individuals with intellectual disabilities (ICF-IIDs).

##### Background

ICF-IIDs are a Medicaid benefit that enables states to provide comprehensive health care and services to individuals with specified intellectual disabilities to promote their functional status and independence. ICF-IIDs must meet federally prescribed requirements and be certified by the [U.S. Department of Health Services, Centers for Medicare and Medicaid Services](#) (U.S. CMS). ICF-IID services are only available in residential facilities that are licensed and certified by the appropriate state agency. Medicaid ICF-IID services are available for Medicaid-eligible individuals and only when other payment options are unavailable. Additionally, ICF-IIDs are only available for individuals in need of receiving active treatment services that include an aggressive, consistent implementation of a program of specialized and generic training, treatment and health services. Federal law prohibits states from limiting access to ICF-IID services, including the use of waitlists for services. According to statute, an *ICF-IID* is a facility that primarily provides health and rehabilitative services to individuals with developmental disabilities that are above the service level of room and board or supervisory care services or personal care services as prescribed for certain adult residential care facilities, but that are less intensive than skilled nursing services ([A.R.S. § 36-551](#)).

The Department of Health Services (DHS) is responsible for the licensure, regulation and inspection of health care institutions in Arizona, with certain exceptions. *Health care institutions* include every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, behavioral health services, health screening services, other health-related services, supervisory care services, personal care services or direct care services and includes home health agencies, outdoor behavioral health care programs and hospice service agencies ([A.R.S. § 36-401](#)). DHS is additionally responsible for licensing group homes for health and safety.

The Division of Developmental Disabilities (DDD) is a division within the Department of Economic Security (DES). DDD provides services to individuals diagnosed with developmental and intellectual disabilities including cerebral palsy, autism and epilepsy. Services provided by DDD include: 1) attendant care; 2) habilitation; 3) home health aide; 4) home nursing; 5) occupational, physical and speech therapies; 6) respite care; and 7) medical services. DES is responsible for licensing specified residential settings, including adult developmental homes and child developmental homes. DDD is additionally responsible for ensuring that state-operated residential settings, that are owned or leased by DDD, meet standards prescribed for group homes, unless they are certified as an ICF-IID as required by federal law. Certified ICF-IIDs that are operated by DDD or private entities are not required to obtain DHS licensure ([A.R.S. § 36-591](#)).

The Department of Child Safety (DCS) maintains a central registry of substantiated reports of abuse and neglect and the outcomes of the associated investigations and uses the central registry to perform background checks and as a factor to determine qualifications for employees and contractors that provide direct services to children and vulnerable adults ([A.R.S. § 8-804](#)). Similarly, DES maintains the Adult Protective Services (APS) Registry of substantiated reports of abuse, neglect and exploitation of vulnerable adults, and contains: 1) the name and date of birth of the person determined to have abused, neglected or exploited a vulnerable adult; 2) the nature of the allegation; and 3) the date, description and disposition of the allegation. Reports must be maintained in the APS Registry for 25 years, and the names of source of the report and the vulnerable adult must be excluded from the APS Registry ([A.R.S. § 46-459](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

### Provisions

1. Requires ICF-IIDs that are operated by DES or a private entity to be licensed by DHS and certified by the U.S. CMS by January 1, 2020.
2. Allows DCS to provide information included in a central registry background check to licensees regarding employees or prospective employees in an ICF-IID.
3. Requires licensees that employ individuals who provide direct care in an ICF-IID to submit necessary information to DCS to conduct central registry background checks.
4. Prohibits the Director of DHS from accepting an accreditation report in lieu of any licensure or compliance inspection of an ICF-IID.
5. Directs DHS to verify whether licensees comply with central registry background check requirements and other related rules adopted by DHS.
6. Requires each employer in Arizona to conduct an APS Registry background check for anyone employed or seeking employment in a position that works with children or vulnerable adults.
7. Permits employers to use information contained in the APS Registry to determine:
  - a) whether a person is qualified for certification to provide home and community-based services to vulnerable adults or children; and
  - b) whether the person who is employed, or seeking employment, with DES is qualified for a position that provides direct care to vulnerable adults or children.
8. Permits employers to use information contained in the APS Registry to determine qualifications for positions that provide direct services to vulnerable adults or children for:
  - a) applicants for a contract with DES and the applicant's employees;
  - b) all employees of a contractor;
  - c) subcontractors and their employees; and
  - d) prospective employees of contractors and subcontractors, at the request of the employer.

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9. Requires that prospective employees certify, prior to employment, whether an allegation of vulnerable adult abuse, neglect or exploitation has been made against them or has been substantiated.
10. Directs DHS to adopt rules that require employees and personnel of ICF-IIDs to report abuse, neglect and exploitation.
11. Exempts DHS from rulemaking requirements for one year after the effective date of this legislation.
12. Makes technical and conforming changes.
13. Becomes effective upon signature of the Governor, if the emergency clause is enacted.

Prepared by Senate Research

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CRS/kja