

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SENATE BILL 1088

AN ACT

AMENDING SECTION 36-551, 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
7 the 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
10 family home in which the care, physical custody and supervision of the
11 adult client are the responsibility, under a twenty-four-hour care model,
12 of the licensee who, in that capacity, is not an employee of the division
13 or of a service provider and the home provides the following services for
14 a group of siblings 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":

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

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

27 4. "Advisory council" means the developmental disabilities advisory
28 council.

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

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

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

37 8. "Case management" means coordinating the assistance needed by
38 persons with developmental disabilities and their families in order to
39 ensure that persons with developmental disabilities attain their maximum
40 potential for independence, productivity and integration into the
41 community.

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

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

5 11. "Child developmental certified home" means a regular foster
6 home as defined in section 8-501 that is licensed pursuant to section
7 8-509 and that is certified by the department pursuant to section
8 36-593.01.

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

16 (a) Room and board.

17 (b) Habilitation.

18 (c) Appropriate personal care.

19 (d) Appropriate supervision.

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

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

26 15. "Community residential setting" means a residential setting in
27 which persons with developmental disabilities live and are provided with
28 appropriate supervision by the service provider responsible for ~~the~~
29 ~~operation of~~ OPERATING the residential setting. Community residential
30 setting includes a child developmental home or an adult developmental home
31 operated or contracted by the department or the department's contracted
32 vendor or a group home operated or contracted by the department.

33 16. "Consent" means voluntary informed consent. Consent is
34 voluntary if not given as the result of coercion or undue influence.
35 Consent is informed if the person giving the consent has been informed of
36 and comprehends the nature, purpose, consequences, risks and benefits of
37 the alternatives to the procedure, and has been informed and comprehends
38 that withholding or ~~withdrawal of~~ WITHDRAWING consent will not prejudice
39 the future provision of care and services to the client. In cases of
40 unusual or hazardous treatment procedures performed pursuant to section
41 36-561, subsection A, experimental research, organ transplantation and
42 nontherapeutic surgery, consent is informed if, in addition to the
43 foregoing, the person giving the consent has been informed of and
44 comprehends the method to be used in the proposed procedure.

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

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

5 19. "Developmental disability" means either a strongly demonstrated
6 potential that a child WHO IS under six years of age has a developmental
7 disability or will develop a developmental disability, as determined by a
8 test performed pursuant to section 36-694 or by other appropriate tests,
9 or a severe, chronic disability that:

10 (a) Is attributable to A cognitive disability, cerebral palsy,
11 epilepsy, SPINA BIFIDA or autism.

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

13 (c) Is likely to continue indefinitely.

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

16 (i) Self-care.

17 (ii) Receptive and expressive language.

18 (iii) Learning.

19 (iv) Mobility.

20 (v) Self-direction.

21 (vi) Capacity for independent living.

22 (vii) Economic self-sufficiency.

23 (e) Reflects the need for a combination and sequence of
24 individually planned or coordinated special, interdisciplinary or generic
25 care, treatment or other services that are of lifelong or extended
26 duration.

27 20. "Director" means the director of the department of economic
28 security.

29 21. "Division" means the division of developmental disabilities in
30 the department of economic security.

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

34 23. "Group home" means a community residential setting for not more
35 than six persons with developmental disabilities that is operated by a
36 service provider under contract with the department and that provides room
37 and board and daily habilitation and other assessed medically necessary
38 services and supports to meet the needs of each person. Group home does
39 not include an adult developmental home, a child developmental home or an
40 intermediate care facility for individuals with intellectual disabilities.

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

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

5 26. "Indigent" means a person with a developmental disability whose
6 estate or parent is unable to bear the full cost of maintaining or
7 providing services for that person in a developmental disabilities
8 program.

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

13 28. "Intermediate care facility for individuals with intellectual
14 disabilities" means a facility that primarily provides health and
15 rehabilitative services to persons with developmental disabilities that
16 are above the service level of room and board or supervisory care services
17 or personal care services as defined in section 36-401.

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

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

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

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

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

35 34. "Placement evaluation" means an interview and evaluation of a
36 person with a developmental disability and a review of the person's prior
37 medical and program histories to determine the appropriate developmental
38 disability programs and services for the person and recommendations for
39 specific program placements for the person.

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

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

1 37. "Responsible person" means the parent or guardian of a minor
2 with a developmental disability, the guardian of an adult with a
3 developmental disability or an adult with a developmental disability who
4 is a client or an applicant for whom no guardian has been appointed.
5 38. "Service provider" means a person or agency that provides
6 services to clients pursuant to a contract, service agreement or qualified
7 vendor agreement with the division.
8 39. "SPINA BIFIDA" MEANS A TYPE OF NEURAL TUBE DEFECT THAT OCCURS
9 WHEN A PERSON'S NEURAL TUBE FAILS TO DEVELOP OR CLOSE PROPERLY BEFORE
10 BIRTH AND OF WHICH THE SEVERITY DEPENDS ON MANY FACTORS, INCLUDING THE
11 SIZE OF THE SPINAL OPENING AND THE LOCATION ON THE SPINE.
12 ~~39.~~ 40. "State operated service center" means a state owned or
13 leased facility that is operated by the department and that provides
14 temporary residential care and space for child and adult services that
15 include respite care, crisis intervention and diagnostic evaluation.
16 ~~40.~~ 41. "Subaverage general intellectual functioning" means
17 measured intelligence on standardized psychometric instruments of two or
18 more standard deviations below the mean for the tests used.
19 ~~41.~~ 42. "Substantial functional limitation" means a limitation so
20 severe that extraordinary assistance from other people, programs, services
21 or mechanical devices is required to assist the person in performing
22 appropriate major life activities.
23 ~~42.~~ 43. "Supervision" means the process by which the activities of
24 an individual with developmental disabilities are directed, influenced or
25 monitored.