CHAPTER 112
SENATE BILL 1214

AN ACT
AMENDING SECTION 8-202, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 222, SECTION 1 AND CHAPTER 240, SECTION 1; REPEALING SECTION 8-202, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 435, SECTION 1; AMENDING SECTION 13-3415, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 222, SECTION 5; REPEALING SECTION 13-3415, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 372, SECTION 1; AMENDING SECTION 21-102, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 160, SECTION 1; REPEALING SECTION 21-102, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 206, SECTION 1; AMENDING SECTION 36-557, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 409, SECTION 8; REPEALING SECTION 36-557, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 60, SECTION 5; AMENDING SECTION 36-591, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 409, SECTION 9; REPEALING SECTION 36-591, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 60, SECTION 8; AMENDING SECTION 38-847, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 34, SECTION 2; REPEALING SECTION 38-847, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 251, SECTION 1; AMENDING SECTION 38-893, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 34, SECTION 5; REPEALING SECTION 38-893, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 251, SECTION 5; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Purpose

1. Section 8-202, Arizona Revised Statutes, was amended by Laws 2021, chapter 222, section 1, chapter 240, section 1 and chapter 435, section 1. The chapter 435 version could not be blended because it failed to amend the chapter 222 version, which was an emergency enactment, and therefore did not comply with article IV, part 2, section 14, Constitution of Arizona. To accomplish the intent of these enactments, this act amends section 8-202, Arizona Revised Statutes, as amended by Laws 2021, chapter 222, section 1 and chapter 240, section 1, to incorporate the amendments made by Laws 2021, chapter 435 and repeals the chapter 435 version.

2. Section 13-3415, Arizona Revised Statutes, was amended by Laws 2021, chapter 222, section 5 and chapter 372, section 1. The chapter 372 version could not be blended because it failed to amend the chapter 222 version, which was an emergency enactment, and therefore did not comply with article IV, part 2, section 14, Constitution of Arizona. To accomplish the intent of these enactments, this act amends section 13-3415, Arizona Revised Statutes, as amended by Laws 2021, chapter 222, section 5, to incorporate the amendments made by Laws 2021, chapter 372 and repeals the chapter 372 version.

3. Section 21-102, Arizona Revised Statutes, was amended by Laws 2021, chapter 160, section 1 and chapter 206, section 1. The chapter 206 version could not be blended because it failed to amend the chapter 160 version, which was an emergency enactment, and therefore did not comply with article IV, part 2, section 14, Constitution of Arizona. To accomplish the intent of these enactments, this act amends section 21-102, Arizona Revised Statutes, as amended by Laws 2021, chapter 160, section 1, to incorporate the amendments made by Laws 2021, chapter 206 and repeals the chapter 206 version.

4. Section 36-557, Arizona Revised Statutes, was amended by Laws 2021, chapter 60, section 5 and chapter 409, section 8. The chapter 60 version could not be blended because of the delayed effective date. In order to combine these versions, this act amends the Laws 2021, chapter 409 version of section 36-557, Arizona Revised Statutes, to incorporate the amendments made by Laws 2021, chapter 60 and repeals the chapter 60 version.

5. Section 36-591, Arizona Revised Statutes, was amended by Laws 2021, chapter 60, section 8 and chapter 409, section 9. The chapter 60 version could not be blended because of the delayed effective date. In order to combine these versions, this act amends the Laws 2021, chapter 409 version of section 36-591, Arizona Revised Statutes, to incorporate the amendments made by Laws 2021, chapter 60 and repeals the chapter 60 version.

6. Section 38-847, Arizona Revised Statutes, was amended by Laws 2021, chapter 34, section 2 and chapter 251, section 1. The chapter 251
version amended the chapter 34 version. The chapter 34 version was not
effective until January 1, 2022. The chapter 251 version was effective on
September 29, 2021. In order to correct a defective enactment, this act
amends the chapter 34 version of section 38-847, Arizona Revised Statutes,
to incorporate the amendments made by chapter 251 and repeals the chapter
251 version.

7. Section 38-893, Arizona Revised Statutes, was amended by Laws
2021, chapter 34, section 5 and chapter 251, section 5. The chapter 251
version amended the chapter 34 version. The chapter 34 version was not
effective until January 1, 2022. The chapter 251 version was effective on
September 29, 2021. In order to correct a defective enactment, this act
amends the chapter 34 version of section 38-893, Arizona Revised Statutes,
to incorporate the amendments made by chapter 251 and repeals the
chapter 251 version.

Sec. 2. Section 8-202, Arizona Revised Statutes, as amended by Laws
2021, chapter 222, section 1 and chapter 240, section 1, is amended to
read:

8-202. Jurisdiction of juvenile court
A. The juvenile court has original jurisdiction over all
delinquency proceedings brought under the authority of this title.
B. The juvenile court has exclusive original jurisdiction over all
proceedings brought under the authority of this title except for
delinquency proceedings.
C. The juvenile court may consolidate any matter, except that the
juvenile court shall not consolidate any of the following:
1. A criminal proceeding that is filed in another division of
superior court and that involves a child who is subject to the
jurisdiction of the juvenile court.
2. A delinquency proceeding with any other proceeding that does not
involve delinquency, unless the juvenile delinquency adjudication
proceeding is not heard at the same time or in the same hearing as a
nondelinquency proceeding.
D. The juvenile court has jurisdiction of proceedings to:
1. Obtain judicial consent to the marriage, employment or
enlistment in the armed services of a child, if consent is required by
law.
2. In an action in which parental rights are terminated pursuant to
chapter 4, article 5 or 11 of this title, change the name of a minor child
who is the subject of the action. If the minor child who is the subject
of the action is twelve years of age or older, the court shall consider
the wishes of the child with respect to the name change.
E. The juvenile court has jurisdiction over civil traffic
violations, civil marijuana violations and offenses listed in section
8-323, subsection B that are committed within the county by persons who
are under eighteen years of age unless the presiding judge of the county
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declines jurisdiction of these cases. The presiding judge of the county may decline jurisdiction of civil traffic violations and civil marijuana violations committed within the county by juveniles if the presiding judge finds that the declination would promote the more efficient use of limited judicial and law enforcement resources located within the county. If the presiding judge declines jurisdiction, juvenile civil traffic violations and civil marijuana violations shall be processed, heard and disposed of in the same manner and with the same penalties as adult civil traffic violations.

F. The orders of the juvenile court under the authority of this chapter or chapter 3 or 4 of this title take precedence over any order of any other court of this state except the court of appeals and the supreme court to the extent that they are inconsistent with orders of other courts. EXCEPT FOR THE FOLLOWING:

1. AN ORDER ENTERED IN THE CRIMINAL COURT CONCERNING AN ONGOING CASE THAT GOVERNS A CRIMINAL DEFENDANT'S ABILITY TO CONTACT THE VICTIM, THE FAMILY OF THE VICTIM OR OTHER MINOR CHILDREN IF THE CRIMINAL COURT MAKES A FINDING THAT CONTACT WITH OTHER MINOR CHILDREN WOULD POSE A RISK OF HARM TO THOSE CHILDREN.

2. AN ORDER BY THE COURT OF APPEALS AND THE SUPREME COURT TO THE EXTENT THEY ARE INCONSISTENT WITH ORDERS OF OTHER COURTS.

G. Except as provided in subsection H of this section, jurisdiction of a child that is obtained by the juvenile court in a proceeding under this chapter or chapter 3 or 4 of this title shall be retained by it, for the purposes of implementing the orders made and filed in that proceeding, until the child becomes eighteen years of age, unless terminated by order of the court before the child's eighteenth birthday.

H. At any time before an adjudication hearing or a proceeding in which a juvenile is admitting to an allegation in a petition that alleges the juvenile is delinquent, the state may file a notice of intent to retain jurisdiction over a juvenile who is seventeen years of age. If the state files a notice of intent to retain jurisdiction, the juvenile court's jurisdiction over a juvenile is retained on the filing of the notice and the court shall retain jurisdiction over the juvenile until the juvenile reaches nineteen years of age, unless before the juvenile's nineteenth birthday either:

1. Jurisdiction is terminated by order of the court.
2. The juvenile is discharged from the jurisdiction of the department of juvenile corrections pursuant to section 41-2820.

I. Persons who are under eighteen years of age shall be prosecuted in the same manner as adults if either:

1. The juvenile court transfers jurisdiction pursuant to section 8-327.
2. The juvenile is charged as an adult with an offense listed in section 13-501.
J. The juvenile court shall retain jurisdiction after a juvenile's eighteenth birthday for the purpose of:
   1. Designating an undesignated felony offense as a misdemeanor or felony, including after an adjudication is set aside pursuant to section 8-348.
   2. Modifying an outstanding monetary obligation imposed by the court except for victim restitution.
   3. Implementing section 36-2862.
K. The juvenile court has jurisdiction to make the initial determination prescribed in section 8-829 whether the voluntary participation of a qualified young adult in an extended foster care program pursuant to section 8-521.02 is in the young adult's best interests.

Sec. 3. Repeal
Section 8-202, Arizona Revised Statutes, as amended by Laws 2021, chapter 435, section 1, is repealed.
Sec. 4. Section 13-3415, Arizona Revised Statutes, as amended by Laws 2021, chapter 222, section 5, is amended to read:
13-3415. Possession, manufacture, delivery and advertisement of drug paraphernalia; classification; civil forfeiture; factors; definitions
A. Except as provided in section 36-2852 and section 36-2853, subsection C, it is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony.
B. Except as provided in section 36-2852 and section 36-2853, subsection C, it is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a drug in violation of this chapter. Any person who violates this subsection is guilty of a class 6 felony.
C. It is unlawful for a person to place in a newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a class 6 felony.
D. All drug paraphernalia is subject to forfeiture pursuant to chapter 39 of this title. The failure to charge or acquittal of an owner or anyone in control of drug paraphernalia in violation of this chapter does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

E. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any drug.
3. The proximity of the object, in time and space, to a direct violation of this chapter.
4. The proximity of the object to drugs.
5. The existence of any residue of drugs on the object.
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter.
7. Instructions, oral or written, provided with the object concerning its use.
8. Descriptive materials accompanying the object that explain or depict its use.
9. National and local advertising concerning its use.
10. The manner in which the object is displayed for sale.
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
13. The existence and scope of legitimate uses for the object in the community.

F. For the purposes of this section, unless the context otherwise requires:

1. "Drug" means any narcotic drug, dangerous drug, marijuana or peyote.
2. "Drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a drug in violation of this chapter. Drug paraphernalia includes:
(a) Kits used, intended for use or designed for use in planting,  
producing, cultivating, growing or harvesting any species of plant that  
is a drug or from which a drug can be derived.

(b) Kits used, intended for use or designed for use in  
manufacturing, compounding, converting, producing, processing or preparing  
drugs.

(c) Isomerization devices used, intended for use or designed for  
use in increasing the potency of any species of plant that is a drug.

(d) Testing equipment used, intended for use or designed for use in  
identifying or analyzing the strength, effectiveness or purity of drugs,  
OTHER THAN NARCOTIC DRUG TESTING PRODUCTS THAT ARE USED TO DETERMINE  
WHETHER A CONTROLLED SUBSTANCE CONTAINS FENTANYL OR A FENTANYL ANALOG.

(e) Scales and balances used, intended for use or designed for use  
in weighing or measuring drugs.

(f) Diluents and adulterants, such as quinine hydrochloride,  
mannitol, mannite, dextrose and lactose, used, intended for use or  
designed for use in cutting drugs.

(g) Separation gins and sifters used, intended for use or designed  
for use in removing twigs and seeds from, or in otherwise cleaning or  
refining, marijuana.

(h) Blenders, bowls, containers, spoons and mixing devices used,  
intended for use or designed for use in compounding drugs.

(i) Capsules, balloons, envelopes and other containers used,  
intended for use or designed for use in packaging small quantities of  
drugs.

(j) Containers and other objects used, intended for use or designed  
for use in storing or concealing drugs.

(k) Hypodermic syringes, needles and other objects used, intended  
for use or designed for use in parenterally injecting drugs into the human  
body.

(l) Objects used, intended for use or designed for use in  
ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a  
dangerous drug, hashish or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes  
with or without screens, permanent screens, hashish heads or punctured  
metal bowls.

(ii) Water pipes.

(iii) Carburetion tubes and devices.

(iv) Smoking and carburetion masks.

(v) Roach clips, meaning objects used to hold burning material,  
such as a marijuana cigarette, that has become too small or too short to  
be held in the hand.

(vi) Miniature cocaine spoons and cocaine vials.

(vii) Chamber pipes.

(viii) Carburetor pipes.
(ix) Electric pipes.
(x) Air-driven pipes.
(xi) Chillums.
(xii) Bongs.
(xiii) Ice pipes or chillers.

Sec. 5. Repeal

Section 13-3415, Arizona Revised Statutes, as amended by Laws 2021, chapter 372, section 1, is repealed.

Sec. 6. Section 21-102, Arizona Revised Statutes, as amended by Laws 2021, chapter 160, section 1, is amended to read:

21-102. Juries; size; degree of unanimity required; waiver; right to jury determination in certain civil actions

A. A jury for trial of a criminal case in which a sentence of death or imprisonment for thirty years or more is authorized by law shall consist of twelve persons, and the concurrence of all shall be necessary to render a verdict.

B. A jury for trial in any court of record of any other criminal case shall consist of eight persons, and the concurrence of all shall be necessary to render a verdict.

C. Until January 1, 2023, the presiding judge of the superior court in the county may order that a jury for trial in any court of record of a civil case shall consist of either six persons, and the concurrence of all but one shall be necessary to render a verdict or eight persons, and the concurrence of all but two shall be necessary to render a verdict. Beginning on January 1, 2023, a jury for trial in any court of record of a civil case shall consist of eight persons, and the concurrence of all but two shall be necessary to render a verdict.

D. In a court not of record, a jury for trial of any case shall consist of six persons. The concurrence of all in a criminal case and all but one in a civil case shall be necessary to render a verdict.

E. The parties in a civil case, and the parties with the consent of the court in a criminal case, may waive trial by jury, or at any time before a verdict is returned consent to try the case with or receive a verdict concurred in by a lesser number of jurors than that specified above.

F. UNLESS THE PARTIES WAIVE TRIAL BY JURY PURSUANT TO SUBSECTION E OF THIS SECTION, IN A CIVIL ACTION BROUGHT BY OR ON BEHALF OF THE STATE FOR A VIOLATION OF A STATUTE THAT DECLARES AN ACT OR PRACTICE UNLAWFUL, A JURY SHALL DETERMINE LIABILITY, WILFULNESS AND THE AMOUNT OF ANY AVAILABLE MONETARY REMEDIES, INCLUDING RESTITUTION, DISGORGEMENT AND CIVIL PENALTIES.

Sec. 7. Repeal

Section 21-102, Arizona Revised Statutes, as amended by Laws 2021, chapter 206, section 1, is repealed.
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Sec. 8. Section 36-557, Arizona Revised Statutes, as amended by Laws 2021, chapter 409, section 8, is amended to read:

36-557. Community developmental disability services; service providers

A. The department may use state and federal monies that are appropriated or otherwise available to it for this purpose to assist in establishing and maintaining local developmental disability services by public or private nonprofit or profit agencies. The monies may be expended as professional fees for service, in contracts for advancement or reimbursement or in another appropriate manner and may be used for any purpose necessary to provide local developmental disability services. The monies may not be used for departmental salaries, care of persons with developmental disabilities by the department or any other purpose within the department, but may be used for consultation to the department in the interest of local programs.

B. A local public or private nonprofit or profit agency providing or intending to provide community developmental disability services and desiring to contract with the department to furnish these services shall submit a program plan and budget to the department on the forms and in the manner required by the department. If the program meets departmental standards and is consistent with the state plan of the department and the individualized service program plan of the client, the department, notwithstanding the provisions of title 41, chapter 23, relating to procurement and including services pursuant to section 36-2943, may contract with that agency for required services on terms the department requires. The contracts shall provide that the provider of services is subject to a continuing program evaluation by the department through progress reports, expenditure reports, program audits or other appropriate evaluation techniques to ensure that the provider of service is in continued compliance with the terms of the contract and the department's community developmental disability service standards and requirements.

C. Contracts between the department and a school district or districts are subject to approval by the department of education.

D. This article does not make the department or the state responsible for funding programs beyond the limits of legislative appropriation for the programs. This article does not require a service provider to provide unreimbursed services to the department or its clients.

E. Contracts to provide community developmental disability services shall require that:

1. The contractor is obligated to operate a program or service in strict accordance with the standards adopted for that program or service by the department.

2. If state funding is provided for a particular program the contractor, to the extent of positions available that are being purchased
by the department, shall provide services to a client with a developmental

disability who has been evaluated and placed by the department.

3. All contractors must carry liability insurance in amounts
approved by the risk management division of the department of
administration and file proof of insurance with the risk management
division. The director may waive that requirement on a case-by-case basis
on a finding that insurance for the program or service is not practicably
available at affordable rates and that it is necessary that the program or
service be provided by the contractor.

4. All clients enrolled in programs have all the same specified
rights as they would have if enrolled in a program operated directly by
the state.

5. Except for emergency placement pursuant to section 36-560,
subsection N, payment shall not be made based on program services provided
to a client if a placement evaluation has not been made, and no individual
program has been prepared and when, based on that placement evaluation, no
recommendation has been made to enroll the client in the particular
program service.

F. This article does not require a contracted agency to provide
unreimbursed services to the department or a client of the department.

G. Contracts to purchase residential care services other than those
community residential settings licensed pursuant to this chapter, in
addition to other general requirements applicable to purchase of care
contractors, shall:

1. Provide for mandatory inspection by the department every two
years for facilities other than group homes.

2. Provide for mandatory monitoring by the department for health,
safety, contractual and programmatic standards at least every six months,
unless the department has granted deemed status to the service provider or
the service provider received a score of at least ninety-five percent on
the most recent monitoring visit. If the department has granted deemed
status or awarded the service provider with a score of at least
ninety-five percent on the most recent monitoring visit, the department
shall monitor that service provider once each year. On a determination by
the department that there is reasonable cause to believe a service
provider is not adhering to the department's programmatic or contractual
requirements, the department and any duly designated employee or agent of
the department may enter on and into the premises at any reasonable time
for the purpose of determining the service provider's state of compliance
with the department's programmatic or contractual requirements.

3. Provide for mandatory investigation by the department in
response to complaints within ten working days, except that in those
instances that pose a danger to the client, the department shall conduct
the investigation immediately. Health and safety complaints related to
group homes shall be referred to the department of health services on
receipt. The department of health services shall share all incident
reports related to health and safety with the division of developmental
disabilities.

4. Except for group homes licensed by the department of health
services, specify the health and safety and sanitation codes and other
codes or standards applicable to the facility or to the operation of the
facility by the contractor other than group homes.

5. Provide for mandatory periodic reports to be filed by the
provider contractor with the department with respect to the operation of
the facility.

6. Provide that the facility and the books and records of the
facility and of the provider are subject to inspection at any time by
employees of the department or designees of the department.

7. Provide that parents and guardians of persons with developmental
disabilities residing at the facility, members of the developmental
disabilities advisory council, and members of other recognized and ongoing
advocacy groups for persons with developmental disabilities may inspect
the facility at reasonable times.

H. Contracts for the purchase of residential care services shall
require a community residential setting to be licensed pursuant to this
chapter other than group homes AND NURSING-SUPPORTED GROUP HOMES THAT ARE
licensed by the department of health services.

I. Contracts for the purchase of day program or employment
services, in addition to the other general requirements applicable to the
purchase of client services, must provide for mandatory monitoring by the
department for health, safety, contractual, programmatic and quality
assurance standards at least once every six months, unless the department
has granted deemed status to the service provider. If the department has
granted deemed status to the service provider, the department shall
monitor that service provider once each year. The department and any duly
designated employee or agent of the department may enter on or into the
service provider's premises at any reasonable time for the purpose of
determining the service provider's state of compliance with the
department's programmatic, contractual and quality assurance requirements.

J. The division shall ensure that all contracted developmental
disabilities service providers rendering services pursuant to this chapter
are reimbursed in accordance with title XIX of the social security act.

K. Contracts for client services issued by the department shall
include language outlining the provisions for a grievance and appeal
procedure. The director shall provide notice to service providers not
less than thirty days before the issuance of an amendment to a qualified
vendor agreement. The decision of the director regarding qualified vendor
agreement amendments may be appealed pursuant to title 41, chapter 6,
article 10. The grievance process applicable to these contracts shall
comply with title XIX requirements.
L. As a condition of contracts with any developmental disabilities service provider, the director shall require terms that conform with state and federal laws, title XIX statutes and regulations and quality standards. The director shall further require contract terms that ensure performance by the provider of the provisions of each contract executed pursuant to this article.

M. The division shall establish a rate structure that ensures an equitable funding basis for private nonprofit or for-profit agencies for services pursuant to subsection B of this section and section 36-2943. In each fiscal year, the division shall review and adjust the rate structure based on section 36-2959. A rate book shall be published and updated by the division to announce the rate structure that shall be incorporated by reference in contracts for client services.

N. The division shall disclose to a service provider in the individual program plan, and in all meetings resulting from a response to a vendor call, any historical and behavioral information necessary for the service provider to be able to anticipate the client's future behaviors and needs, including summary information from the program review committee, unusual incident reports reviewed by the independent oversight committee and behavioral treatment plans. The division shall redact the client's identification from this information.

O. Service providers are authorized to engage in the following activities in accordance with a client's individual program plan:
   1. Administer medications, including assisting with the client's self-administration of medications.
   2. Log, store, remove and dispose of medications.
   3. Maintain medications and protocols for direct care.
   4. Serve as the client's representative payee if requested by the client or the client's guardian and approved by the payer.

P. The department may adopt rules establishing procedures for engaging in the activities listed in subsection O of this section.

Q. To protect the health and safety of a client, a service provider must notify the division within twenty-four hours if an emergency situation exists in which the service provider is unable to meet the health or safety needs of the client.

R. On notification of an emergency situation, the department shall hold an individual program plan meeting within fifteen days after notification to recommend any changes, including whether there is a need for temporary additional staffing to provide appropriate care for a client, and develop a plan within thirty days after notification to resolve the situation.

S. Service providers shall develop and implement policies and procedures regarding the communication to responsible persons of a serious incident affecting a client who is living in a community residential setting within twenty-four hours after the serious incident occurs.
Sec. 9. Repeal

Section 36-557, Arizona Revised Statutes, as amended by Laws 2021, chapter 60, section 5, is repealed.

Sec. 10. Section 36-591, Arizona Revised Statutes, as amended by Laws 2021, chapter 409, section 9, is amended to read:

36-591. Group homes; licensing; notification requirements; exception; annual inspection

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

B. The division shall notify the department of health services of:

1. Service providers that enter into contracts with the division for group homes or intermediate care facilities for individuals with intellectual disabilities.

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

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

1. When the license of a group home, NURSING-SUPPORTED GROUP HOME or intermediate care facility for individuals with intellectual disabilities has been denied, suspended or revoked.

2. Of any other licensing action taken on a group home, NURSING-SUPPORTED GROUP HOME or intermediate care facility for individuals with intellectual disabilities by the department of health services.

3. Of substantiated complaints regarding health and safety.

D. The division shall ensure that state-operated residential settings that are owned or leased facilities operated by the division meet the same standards as group homes unless they are required to be:

1. Licensed and certified as intermediate care facilities for individuals with intellectual disabilities pursuant to 42 Code of Federal Regulations part 483, subpart I. An intermediate care facility for individuals with intellectual disabilities that is operated by the division or a private entity is required to be licensed pursuant to chapter 4 of this title and certified pursuant to 42 Code of Federal Regulations part 483, subpart I.

2. LICENSED AS A NURSING-SUPPORTED GROUP HOME AS REQUIRED BY CHAPTER 4 OF THIS TITLE.

E. The department shall take any action it deems necessary to carry out the duties imposed by this section, including denying the application for licensure and suspending or revoking of the home’s license.

Sec. 11. Repeal

Section 36-591, Arizona Revised Statutes, as amended by Laws 2021, chapter 60, section 8, is repealed.
Sec. 12. Section 38-847, Arizona Revised Statutes, as amended by Laws 2021, chapter 34, section 2, is amended to read:

38-847. Local boards

A. To the extent outlined in this section, the administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the university of Arizona, Arizona state university, northern Arizona university, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department of law, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation firefighting agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one local board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairperson, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system, or the head's designee from among the other members of the merit system, if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.

2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by the members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairperson.

3. For fire districts, the chairperson of the fire district governing board or the chairperson's designee, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the chairperson of the fire district governing board, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.

4. For joint powers authorities organized pursuant to section 48-805.01, the joint powers authority board chairperson or a designee approved by the governing body, two members elected by secret ballot by members employed by the joint powers authority and two citizens, one of
whom is a resident of one of the partner entities and one of whom has experience in personnel administration but who is not required to be a resident of a partner entity.

B. On the taking effect of this system for an employer, the appointments and elections of local board members shall take place with one elective and appointive local board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the system. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the board of trustees, the board of trustees may appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two-year or four-year term. If the board of trustees cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the board of trustees may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Each local board shall meet at least twice a year. Each member of a local board, within ten days after the member's appointment or election, shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly allow to be violated any of the provisions of law applicable to the system. Within one hundred eighty days after appointment or election, each board member shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties.

D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:

1. To decide all questions of eligibility for membership and disability and in the line of duty death benefits under the system.
2. To prescribe procedures to be followed by claimants in filing applications for disability and in the line of duty death benefits.
3. To make a determination as to the right of any claimant to a disability and in the line of duty death benefit, to issue opinions on questions of whether benefits are consistent with and allowable under the system and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Except as otherwise required by law, unless all parties involved in a matter presented to the
local board for determination otherwise agree, the local board shall 1
commence a hearing on the matter within ninety days after the date the 2
matter is presented to the local board for determination. If a local 3
board fails to commence a hearing as provided in this paragraph, on a 4
matter presented to the local board for determination, the relief demanded 5
by the party petitioning the local board is deemed granted and approved by 6
the local board.

4. To request and receive from the employers and from members such 7
information as is necessary for the proper administration of the system 8
and action on claims for eligibility for membership and disability and in 9
the line of duty death benefits, and to forward such information to the 10
board of trustees.

5. To distribute, in such manner as the local board determines to 11
be appropriate, information explaining the system received from the board 12
of trustees.

6. To furnish the employer, the board of trustees and the 13
legislature, on request, with such annual reports with respect to the 14
administration of the system as are reasonable and appropriate.

7. To receive and review the actuarial valuation of the system for 15
its group of members.

8. To receive and review reports of the financial condition and of 16
the receipts and disbursements of the fund from the board of trustees.

9. To appoint medical boards as provided in section 38-859.

10. To sue and be sued to effectuate the duties and 17
responsibilities set forth in this article.

E. A local board may not add to, subtract from, modify or waive any 18
of the terms of the system, change or add to any benefits provided by the 19
system or waive or fail to apply any requirement of eligibility for 20
membership or disability and in the line of duty death benefits under the 21
system. Notwithstanding any limitations periods imposed in this article, 22
including subsection D, paragraph 3 and subsections G and H of this 23
section, if the board of trustees determines a local board decision 24
violates the internal revenue code or threatens to impair the system's 25
status as a qualified plan under the internal revenue code, the local 26
board's decision is not final and binding and the board of trustees may 27
refrain from implementing or complying with the local board decision.

F. A local board shall establish and adopt such rules as it deems 28
necessary for its administration and to adjudicate claims and disputes. At 29
a minimum, the board's rules shall incorporate the model uniform rules for 30
local board procedure that are issued by the board of trustees. All rules 31
and decisions of a local board shall be uniformly and consistently applied 32
to all members in similar circumstances. If a claim or dispute is 33
presented to a local board for determination but the local board has not 34
yet adopted uniform rules of procedure for adjudication of the claim or 35
dispute, the local board shall adopt and use the model uniform rules of
local board procedure that are issued by the board of trustees' fiduciary
counsel to adjudicate the claim or dispute.

G. Except as otherwise provided in this article, any action by a
majority vote of the members of a local board that is not inconsistent
with the provisions of the system and the internal revenue code shall be
final, conclusive and binding on all persons affected by it unless a
timely application for a rehearing or appeal is filed as provided in this
article. Not later than twenty days after taking action, the local board
shall submit to the board of trustees the minutes from the local board
meeting that include the name of the member affected by its decision, a
description of the action taken and an explanation of the reasons and all
documents submitted to the local board for the action taken, including the
reports of a medical board. The board of trustees may require additional
records from the local board or the employer or may require that the local
board conduct a rehearing on the matter. The board of trustees may not
implement and comply with any local board action that does not comply with
the internal revenue code or that threatens to jeopardize the system's
status as a qualified plan under the internal revenue code.

H. A claimant may apply for or the board of trustees may require a
rehearing before the local board within the time periods prescribed in
this subsection, except that if a decision of a local board violates the
internal revenue code or threatens to jeopardize the system's status as a
qualified plan under the internal revenue code, any limitation period for
the board of trustees to require a rehearing of a local board decision
does not apply. An application for a rehearing shall be filed in writing
with a member of the local board or its secretary within sixty days after:

1. The applicant-claimant receives notification of the local
board's original action by certified mail, by attending the meeting at
which the action is taken or by receiving benefits from the system
pursuant to the local board’s original action, whichever occurs first.

2. The applicant-board of trustees receives notification of the
local board's original action as prescribed by subsection G of this
section by email or certified mail.

I. A hearing before a local board on a matter remanded from the
superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review
pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local
board shall be entitled to rely on information furnished by the employer,
a medical board, the board of trustees, independent legal counsel or the
actuary for the system.

L. Each member of a local board is entitled to one vote. A
majority is necessary for a decision by the members of a local board at
any meeting of the local board.
M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings in compliance with chapter 3, article 3.1 of this title and forward the minutes and all necessary communications to the board of trustees as prescribed by subsection G of this section. Within one hundred eighty days after election, the local board’s secretary shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties.

N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer and not the board of trustees or system at such rates and in such amounts as the local board shall approve. Each local board shall hire an independent legal counsel who is not an employee of or contracted with the employer or any employee organization or member and owes its duty of loyalty only to the local board in connection with its representation of the local board. THE INDEPENDENT LEGAL COUNSEL MAY NOT REPRESENT A MEMBER OF THE PLAN BEFORE ANY LOCAL BOARD OR ANY JUDICIAL APPEAL OF A LOCAL BOARD DECISION. The local board's independent legal counsel shall review the model uniform rules for local board procedure that are issued by the board of trustees.

O. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the board of trustees and the actuary.

P. The local board and the individual members of the local board shall be indemnified from the assets of the employer for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

Q. A local board shall submit to the board of trustees the names of the members of the local board and the local board's secretary and independent legal counsel and shall submit any changes to those positions within ten days after the change.

R. An employer and a local board shall submit any reports, data, paperwork or other materials that are requested by the board of trustees for any reason, including local board action or inaction or to investigate a complaint regarding a local board. If the board of trustees or its designee through an audit or investigation finds that the local board is not in compliance with statute or the model uniform rules for local board procedure, the board of trustees shall notify the local board of the
noncompliance and the local board shall have sixty days to take corrective
action. If the local board fails to take adequate corrective action, the
board of trustees may act on behalf of the local board until the matter is
resolved. The board of trustees or its designee shall work with the local
board members to take the appropriate corrective actions, including
appointing any vacant or noncompliant local board member positions, if
necessary, to bring the local board and its membership, policies and
procedures into compliance.

Sec. 13. Repeal
Section 38-847, Arizona Revised Statutes, as amended by Laws 2021,
chapter 251, section 1, is repealed.

Sec. 14. Section 38-893, Arizona Revised Statutes, as amended by
Laws 2021, chapter 34, section 5, is amended to read:

38-893. Local boards; powers and duties; rules; hearings;
administrative review
A. To the extent outlined in this section, the administration of
the plan and the responsibility for making the provisions of the plan
effective for each employer are vested in a local board. The state
department of corrections, the department of juvenile corrections, the
department of public safety, each participating county sheriff's
department, each participating city or town, each participating employer
of full-time dispatchers for eligible groups as defined in section 38-842
and the judiciary shall have a local board. Each local board is
constituted as follows:

1. For the state departments, two members who are elected by secret
ballot by members employed by that department in a designated position and
two citizens who are appointed by the governor. The director of each
state department shall appoint one member to the local board who is
knowledgeable in personnel actions. Each state department local board
shall elect a chairperson.

2. For each participating county, the chairperson of the board of
supervisors, or the chairperson's designee who is approved by the board of
supervisors, two members who are elected by secret ballot
by members employed by the participating county in a designated position
and two citizens, one of whom shall be the head of the merit system if it
exists for the group of members, who are appointed by the chairperson of
the board of supervisors with the approval of the board of supervisors.

3. For political subdivisions, the mayor or chief elected official
or a designee of the mayor or chief elected official approved by the
respective governing body as chairperson, two members elected by secret
ballot by members employed by the appropriate employer and two citizens,
one of whom shall be the head of the merit system if it exists for the
group of members, appointed by the mayor or chief elected official and
with the approval of the city council or governing body of the employer.
4. For the judiciary, two members who are elected by secret ballot by members who are employed as a probation, surveillance or juvenile detention officer, a designee of the chief justice of the Arizona supreme court and two citizens, one of whom shall be the head of a human resource department for the group of members, appointed by the chief justice.

B. The appointments and elections of local board members shall take place with one elective and one appointive board member, as designated by the appointing authority, serving a term ending two years after the date of appointment or election and the other local board members serving a term ending four years after the date of appointment or election. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as provided in this section. Each local board shall meet at least twice each year.

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the plan. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the board of trustees, the board of trustees shall appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two-year or four-year term. If the board of trustees cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the board of trustees may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Within ten days after the member's appointment or election, each member of a local board shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and shall not knowingly violate or willingly allow to be violated any of the provisions of law applicable to the plan. Within one hundred eighty days after appointment or election, each board member shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties.

D. Except as limited by subsection E of this section, a local board shall:

1. Decide all questions of eligibility for membership and disability and in the line of duty death benefits under the plan.

2. Make a determination as to the right of a claimant to a disability or in the line of duty death benefit, issue opinions on questions of whether benefits are consistent with and allowable under the plan and afford a claimant or the board of trustees, or both, a right to a rehearing on the original determination. Except as otherwise required by law, unless all parties involved in a matter presented to the local board for determination otherwise agree, the local board shall commence a hearing on the matter within ninety days after the date the matter is
presented to the local board for determination. If a local board fails to
commence a hearing as provided in this paragraph, on a matter presented to
the local board for determination, the relief demanded by the party
petitioning the local board is deemed granted and approved by the local
board.

3. Request and receive from the employers and from members
information as is necessary for the proper administration of the plan and
action on claims for disability and in the line of duty death benefits and
forward the information to the board of trustees.

4. Distribute, in the manner the local board determines to be
appropriate, information explaining the plan that is received from the
board of trustees.

5. Furnish the employer, the board of trustees and the legislature,
on request, with annual reports with respect to the administration of the
plan that are reasonable and appropriate.

6. Appoint a medical board that is composed of a designated
physician or physicians working in a clinic other than the employer's
regular employee or contractor. If required, the local board may employ
other physicians to report on special cases. The examining physician or
clinic shall report the results of examinations made to the local board,
and the secretary of the local board shall preserve the report as a
permanent record.

7. Sue and be sued to effectuate the duties and responsibilities
set forth in this article.

8. Prescribe procedures to be followed by claimants in filing
applications for benefits.

9. Receive and review the actuarial valuation of the plan for its
group of members.

10. Receive and review reports of the financial condition and of
the receipts and disbursements of the fund from the board of trustees.

E. A local board may not add to, subtract from, modify or waive any
of the terms of the plan, change or add to any benefits provided by the
plan or waive or fail to apply any requirement of eligibility for
membership or disability and in the line of duty death benefits under the
plan. Notwithstanding any limitations periods imposed in this article,
including subsections G and H of this section, if the board of trustees
determines a local board decision violates the internal revenue code or
threatens to impair the plan's status as a qualified plan under the
internal revenue code, the local board's decision is not final and binding
and the board of trustees may refrain from implementing or complying with
the local board decision.

F. A local board shall establish and adopt rules as it deems
necessary for its administration and to adjudicate claims or disputes. At
a minimum the board's rules shall incorporate the model uniform rules for
local board procedure that are issued by the board of trustees. All rules
and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. If a claim or dispute is presented to a local board for determination but the local board has not yet adopted uniform rules of procedure for adjudication of the claim or dispute, the local board shall adopt and use the model uniform rules of local board procedure that are issued by the board of trustees' fiduciary counsel to adjudicate the claim or dispute.

G. Except as otherwise provided in this article, an action by a majority vote of the members of a local board that is not inconsistent with the provisions of the plan and the internal revenue code is final, conclusive and binding on all persons affected by it, unless a timely application for a rehearing or appeal is filed as provided in this article. Not later than twenty days after taking action, the local board shall submit to the board of trustees the minutes from the local board meeting that include the name of the member affected by its decision, a description of the action taken and an explanation of the reasons and all documents submitted to the local board for the action taken, including the reports of a medical board. The board of trustees may require additional records from the local board or the employer or may require that the local board conduct a rehearing on the matter. The board of trustees may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the plan's status as a qualified plan under the internal revenue code.

H. A claimant may apply for or the board of trustees may require a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the plan's status as a qualified plan under the internal revenue code, any limitation period for the board of trustees to require a rehearing of a local board decision does not apply. A claimant or the board of trustees shall file an application for rehearing in writing with a member of the local board or its secretary within sixty days after:

1. The claimant receives notification of the local board's original action by certified mail, by attending the meeting at which the action is taken or by receiving benefits from the plan pursuant to the local board's original action, whichever occurs first.

2. The board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by email or certified mail.

I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.
K. When making a ruling, determination or calculation, the local board is entitled to rely on information furnished by the employer, the board of trustees, independent legal counsel or the actuary for the plan.

L. Each member of a local board is entitled to one vote. A majority is necessary for a decision by the members of a local board at any meeting of the local board.

M. The local board shall adopt bylaws as it deems necessary. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings in compliance with chapter 3, article 3.1 of this title and forward the minutes and all necessary communications to the board of trustees as prescribed by subsection G of this section. Within one hundred eighty days after election, the local board secretary shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties.

N. Each local board shall hire an independent legal counsel. The local board's independent legal counsel may not be employed by or contracted with the employer or any employee organizations or member of the plan. THE INDEPENDENT LEGAL COUNSEL MAY NOT REPRESENT A MEMBER OF THE PLAN BEFORE ANY LOCAL BOARD OR ANY JUDICIAL APPEAL OF A LOCAL BOARD DECISION. The local board's independent legal counsel shall review the model uniform rules for local board procedure that are issued by the board of trustees.

O. The employer and not the board of trustees or plan shall pay the fees of the medical board and of the local board's legal counsel and all other expenses of the local board necessary for the administration of the plan at rates and in amounts as the local board approves.

P. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in the manner it deems convenient and proper, all reports from the board of trustees and the actuary.

Q. The local board and the individual members of the local board are indemnified from the assets of the fund for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the plan.

R. A local board shall submit to the board of trustees the names of the members of the local board and the local board's secretary and independent legal counsel and shall submit any changes to those positions within ten days after the change.

S. An employer and a local board shall submit any reports, data, paperwork or other materials that are requested by the board of trustees for any reason, including local board action or inaction or to investigate
a complaint regarding a local board. If the board of trustees or its
designee through an audit or investigation finds that the local board is
not in compliance with statute or the model uniform rules for local board
procedure, the board of trustees shall notify the local board of the
noncompliance and the local board shall have sixty days to take corrective
action. If the local board fails to take adequate corrective action, the
board of trustees may act on behalf of the local board until the matter is
resolved. The board of trustees or its designee shall work with the local
board members to take the appropriate corrective actions, including
appointing any vacant or noncompliant local board member positions, if
necessary, to bring the local board and its membership, policies and
procedures into compliance.
Sec. 15. Repeal
Section 38-893, Arizona Revised Statutes, as amended by Laws 2021,
chapter 251, section 5, is repealed.
Sec. 16. Retroactivity
A. Sections 2, 3, 4, 5, 6 and 7 of this act apply retroactively to
from and after September 28, 2021.
B. Sections 12, 13, 14 and 15 of this act apply retroactively to
from and after December 31, 2021.
C. Sections 8, 9, 10 and 11 of this act apply retroactively to from
and after June 30, 2022.