

REFERENCE TITLE: sober living; residential care; penalties

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1566

Introduced by
Senator Hatathlie

AN ACT

AMENDING SECTIONS 36-414, 36-431.01 AND 36-431.02, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-431.03; AMENDING SECTION 36-2063, ARIZONA REVISED STATUTES; RELATING TO RESIDENTIAL CARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 36-414, Arizona Revised Statutes, is amended to read:

36-414. Health services licensing fund; exemption

A. The health services licensing fund is established consisting of monies deposited pursuant to sections 30-654, 32-1308, 32-2805, 36-405, 36-431.01, 36-765.05, 36-766.06, 36-851.01, 36-882, 36-897.01, ~~and~~ 36-1903 AND 36-2063. The department of health services shall administer the fund.

B. Monies in the fund are subject to legislative appropriation.

C. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 2. Section 36-431.01, Arizona Revised Statutes, is amended to read:

36-431.01. Violations; civil penalties; enforcement; use of monies

A. The director ~~may~~ SHALL assess a civil penalty against a person who violates this chapter or a rule adopted pursuant to this chapter in an amount of AT LEAST \$5,000 AND not more than ~~\$1,000~~ \$10,000 for each violation, which may be assessed for each resident or patient who the department determines was impacted by the violation. Each day that a violation occurs constitutes a separate violation.

B. The director ~~may~~ SHALL issue a notice of assessment that shall include the ~~proposed~~ amount of the assessment. A person may appeal the assessment by requesting a hearing pursuant to title 41, chapter 6, article 10. When an assessment is appealed, the director shall take no further action to enforce and collect the assessment until after the hearing.

C. In determining the amount of the civil penalty pursuant to subsection A of this section, the department shall establish a model in rule that considers the following:

1. Repeated violations of statutes or rules.
2. Patterns of noncompliance.
3. Types of violations.
4. The severity of violations.
5. The potential for and occurrences of actual harm, including to patients, staff or residents.
6. Threats to health and safety, including to patients, staff or residents.
7. The number of persons affected by the violations.
8. The number of violations.
9. The size of the facility.
10. The length of time that the violations have been occurring.
11. THE NUMBER OF INJURIES CAUSED.
12. THE SEVERITY OF THE INJURIES CAUSED.

1 13. THE NUMBER OF DEATHS CAUSED.

2 14. THE CAUSE OF DEATHS.

3 ~~11.~~ 15. The type of health care institution.

4 ~~12.~~ 16. Whether the health care institution and staff are in
5 compliance with the reporting requirements pursuant to section 46-454.

6 D. Pursuant to interagency agreement specified in section 36-409,
7 the director ~~may~~ SHALL assess a civil penalty, including interest, in
8 accordance with 42 United States Code section 1396r. A person may appeal
9 this assessment by requesting a hearing before the director in accordance
10 with subsection B of this section. Civil penalty amounts may be
11 established by rules adopted by the director that conform to guidelines or
12 regulations adopted by the secretary of the United States department of
13 health and human services pursuant to 42 United States Code section 1396r.

14 E. Actions to enforce the collection of penalties assessed pursuant
15 to subsections A and D of this section shall be brought by the attorney
16 general or the county attorney in the name of the state in the justice
17 court or the superior court in the county in which the violation occurred.

18 F. Penalties assessed under subsection D of this section are in
19 addition to and not in limitation of other penalties imposed pursuant to
20 this chapter. All civil penalties and interest assessed pursuant to
21 subsection D of this section shall be deposited, pursuant to sections
22 35-146 and 35-147, in the nursing care institution resident protection
23 revolving fund established by section 36-431.02. The director shall use
24 these monies for the purposes prescribed by 42 United States Code section
25 1396r, including payment for the costs of relocation of residents to other
26 facilities, maintenance of operation of a facility pending correction of
27 the deficiencies or closure and reimbursement of residents for personal
28 monies lost.

29 G. A RESIDENTIAL CARE INSTITUTION THAT OPERATES IN THIS STATE
30 WITHOUT A LICENSE IN VIOLATION OF THIS CHAPTER IS GUILTY OF A CLASS 6
31 FELONY AND THE DIRECTOR SHALL ASSESS A CIVIL PENALTY OF AT LEAST \$5,000
32 AND NOT MORE THAN \$10,000 FOR EACH VIOLATION. EACH DAY THE RESIDENTIAL
33 CARE INSTITUTION OPERATES WITHOUT A LICENSE IS A SEPARATE VIOLATION.

34 ~~G.~~ H. The department shall deposit civil penalties assessed under
35 ~~subsection A of~~ this section in the ~~state general fund~~ FOLLOWING FUNDS AS
36 FOLLOWS:

37 1. EIGHTY PERCENT IN THE INDIGENOUS PEOPLES PROTECTION REVOLVING
38 FUND ESTABLISHED BY SECTION 36-431.03.

39 2. FIVE PERCENT IN THE HEALTH SERVICES LICENSING FUND ESTABLISHED
40 BY SECTION 36-414. THE DEPARTMENT SHALL USE THE MONIES DEPOSITED IN THE
41 HEALTH SERVICES LICENSING FUND PURSUANT TO THIS PARAGRAPH FOR INSPECTIONS
42 AND ENFORCEMENT RELATING TO RESIDENTIAL CARE INSTITUTIONS.

43 3. FIFTEEN PERCENT IN THE NURSING CARE INSTITUTION RESIDENT
44 PROTECTION REVOLVING FUND ESTABLISHED BY SECTION 36-431.02.

1 Sec. 3. Section 36-431.02, Arizona Revised Statutes, is amended to
2 read:

3 36-431.02. Nursing care institution resident protection
4 revolving fund; use; nonreversion

5 A. The nursing care institution resident protection revolving fund
6 is established. The fund consists of monies received from civil penalties
7 collected by the director pursuant to section 36-431.01, ~~subsection D~~.

8 B. The director shall use monies in the fund for the purposes
9 prescribed in section 36-431.01, subsection F, subject to legislative
10 appropriation.

11 C. Monies in the fund are exempt from the provisions of section
12 35-190 relating to the lapsing of appropriations.

13 Sec. 4. Title 36, chapter 4, article 2, Arizona Revised Statutes,
14 is amended by adding section 36-431.03, to read:

15 36-431.03. Indigenous peoples protection revolving fund

16 A. THE INDIGENOUS PEOPLES PROTECTION REVOLVING FUND IS ESTABLISHED
17 TO SUPPORT RESILIENCY AND HEALING OF INDIGENOUS PEOPLES IN THIS STATE.
18 THE FUND CONSISTS OF MONIES DEPOSITED PURSUANT TO SECTION 36-431.01.
19 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE
20 PROVISIONS OF SECTION 35-190 RELATING TO THE LAPSING OF APPROPRIATIONS.
21 THE DIRECTOR SHALL ADMINISTER THE FUND.

22 B. THE MONIES IN THE FUND SHALL BE USED ANNUALLY AS FOLLOWS:

23 1. FORTY PERCENT SHALL BE TRANSFERRED TO TRIBAL COLLEGES IN THIS
24 STATE FOR PROGRAMMING IN SOCIAL WORK AND BEHAVIORAL HEALTH.

25 2. TWENTY PERCENT SHALL PROVIDE RESTITUTION PAYMENTS FOR FAMILIES
26 OF DECEASED VICTIMS OF THIS STATE'S BEHAVIORAL HEALTH SYSTEM AND SOBER
27 LIVING HOMES. EACH FAMILY OF A DECEASED VICTIM SHALL RECEIVE A MINIMUM OF
28 \$3,000 AND THE REPATRIATION OF THE VICTIM'S HUMAN REMAINS AND EXPENSES.

29 3. FORTY PERCENT SHALL BE DISTRIBUTED TO TRIBAL COMMUNITIES FOR
30 BEHAVIORAL HEALTH TREATMENT SERVICES AND PROGRAMS OR RESIDENTIAL HOMES,
31 INCLUDING BEHAVIORAL HEALTH RESIDENTIAL FACILITIES, SOBER LIVING HOMES AND
32 TRANSITIONAL HOMES.

33 Sec. 5. Section 36-2063, Arizona Revised Statutes, is amended to
34 read:

35 36-2063. Fees; licensure; inspections; violation;
36 classification; civil penalty; sanctions

37 A. The department shall establish fees for initial licensure and
38 license renewal OF A SOBER LIVING HOME and a fee for the late payment of
39 licensing fees that includes a grace period. The department shall
40 deposit, pursuant to sections 35-146 and 35-147, ninety percent of the
41 fees collected pursuant to this section in the health services licensing
42 fund established by section 36-414 and ten percent of the fees collected
43 pursuant to this section in the state general fund.

1 B. On a determination by the director that there is reasonable
 2 cause to believe a sober living home is not adhering to the licensing
 3 requirements of this article, the director and any duly designated
 4 employee or agent of the director ~~may~~ SHALL enter on and into the premises
 5 of any sober living home that is licensed or required to be licensed
 6 pursuant to this article at any reasonable time for the purpose of
 7 determining the state of compliance with this article, the rules adopted
 8 pursuant to this article and local fire ordinances or rules. Any
 9 application for licensure under this article constitutes permission for
 10 and complete acquiescence in any entry or inspection of the premises
 11 during the pendency of the application and, if licensed, during the term
 12 of the license. If an inspection reveals that the sober living home is
 13 not adhering to the licensing requirements established pursuant to this
 14 article, the director ~~may~~ SHALL take action authorized by this article.

15 C. Any sober living home whose license has been suspended ~~or~~
 16 ~~revoked~~ in accordance with this article is subject to inspection on
 17 application for ~~reticensure or~~ reinstatement of THE license. IF A SOBER
 18 LIVING HOME LICENSE IS REVOKED IN THIS STATE OR ANY OTHER STATE, THE
 19 LICENSEE OF THE SOBER LIVING HOME WHOSE LICENSE WAS REVOKED MAY NOT
 20 REAPPLY FOR ANY LICENSE ISSUED PURSUANT TO THIS TITLE FOR A PERIOD OF AT
 21 LEAST FIVE YEARS.

22 D. A SOBER LIVING HOME THAT OPERATES IN THIS STATE WITHOUT A
 23 LICENSE IN VIOLATION OF THIS ARTICLE IS GUILTY OF A CLASS 6 FELONY AND THE
 24 DIRECTOR SHALL ASSESS A CIVIL PENALTY OF AT LEAST \$5,000 AND NOT MORE THAN
 25 \$10,000 FOR EACH VIOLATION. EACH DAY THE SOBER LIVING HOME OPERATES
 26 WITHOUT A LICENSE IS A SEPARATE VIOLATION.

27 ~~E.~~ E. The director ~~may~~ SHALL impose a civil penalty on a person
 28 that violates this article or the rules adopted pursuant to this article
 29 in an amount of AT LEAST \$5,000 AND not more than ~~five hundred dollars~~
 30 \$10,000 for each violation. Each day that a violation occurs constitutes
 31 a separate violation. The director ~~may~~ SHALL issue a notice that includes
 32 the ~~proposed~~ amount of the civil penalty assessment. If a person requests
 33 a hearing to appeal an assessment, the director may not take further
 34 action to enforce and collect the assessment until the hearing process is
 35 complete. The director shall impose a civil penalty only for those days
 36 for which the violation has been documented by the department.

37 ~~F.~~ F. The department may impose sanctions and commence
 38 disciplinary actions against a licensed sober living home, including
 39 revoking the license. A license may not be suspended or revoked under
 40 this article without affording the licensee notice and an opportunity for
 41 a hearing as provided in title 41, chapter 6, article 10.

42 ~~F.~~ G. The department may contract with a third party to assist the
 43 department with licensure and inspections.

1 Sec. 6. Rulemaking exemption
2 Notwithstanding any other law, for the purposes of this act, the
3 department of health services is exempt from the rulemaking requirements
4 of title 41, chapters 6 and 6.1, Arizona Revised Statutes, through June
5 30, 2026.