

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2413

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 the
7 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 family
10 home in which the care, physical custody and supervision of the adult client
11 are the responsibility, under a twenty-four hour care model, of the licensee
12 who, in that capacity, is not an employee of the division or of a service
13 provider and the home provides the following services for a group of siblings
14 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" means a person who is at least eighteen
20 years of age and who resides in an adult developmental home, child
21 developmental foster home, secure setting or home and community based service
22 setting for at least thirty days or who resides in the household throughout
23 the year for more than a cumulative total of thirty days.
24 4. "Advisory council" means the developmental disabilities advisory
25 council.
26 5. "Arizona training program facility" means a state operated
27 institution for developmentally disabled clients of the department.
28 6. "Attributable to mental retardation, epilepsy, cerebral palsy or
29 autism" means that there is a causal relationship between the presence of an
30 impairing condition and the developmental disability.
31 7. "Autism" means a condition characterized by severe disorders in
32 communication and behavior resulting in limited ability to communicate,
33 understand, learn and participate in social relationships.
34 8. "Case manager" means a person who coordinates the implementation of
35 the individual program plan of goals, objectives and appropriate services for
36 persons with developmental disabilities.
37 9. "Case management" means coordinating the assistance needed by
38 persons with developmental disabilities and their families in order to ensure
39 that persons with developmental disabilities attain their maximum potential
40 for independence, productivity and integration into the community.
41 10. "Cerebral palsy" means a permanently disabling condition resulting
42 from damage to the developing brain ~~which~~ THAT may occur before, after or
43 during birth and results in loss or impairment of control over voluntary
44 muscles.

1 11. "Child developmental foster home" means a residential setting in a
2 family home in which the care, physical custody and supervision of the child
3 are the responsibility, under a twenty-four hour care model, of the licensee
4 who serves as the foster parent of the child in the home setting and who, in
5 that capacity, is not an employee of the division or of a service provider
6 and the home provides the following services for a group of siblings or up to
7 three children with developmental disabilities:

- 8 (a) Room and board.
- 9 (b) Habilitation.
- 10 (c) Appropriate personal care.
- 11 (d) Appropriate supervision.

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

14 13. "Community residential setting" means a child developmental foster
15 home, an adult developmental home or a secure setting operated or contracted
16 by the department in which persons with developmental disabilities live and
17 are provided with appropriate supervision by the service provider responsible
18 for the operation of the residential setting.

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

31 15. "Daily habilitation" means habilitation as defined in this section
32 except that the method of payment is for one unit per residential day.

33 16. "Department" means the department of economic security.

34 17. "Developmental disability" means either a strongly demonstrated
35 potential that a child under the age of six years is developmentally disabled
36 or will become developmentally disabled, as determined by a test performed
37 pursuant to section 36-694 or by other appropriate tests, or a severe,
38 chronic disability ~~which~~ THAT:

- 39 (a) Is attributable to mental retardation, cerebral palsy, epilepsy or
40 autism.
- 41 (b) Is manifest before age eighteen.
- 42 (c) Is likely to continue indefinitely.
- 43 (d) Results in substantial functional limitations in three or more of
44 the following areas of major life activity:

- 1 (i) Self-care.
2 (ii) Receptive and expressive language.
3 (iii) Learning.
4 (iv) Mobility.
5 (v) Self-direction.
6 (vi) Capacity for independent living.
7 (vii) Economic self-sufficiency.
8 (e) Reflects the need for a combination and sequence of individually
9 planned or coordinated special, interdisciplinary or generic care, treatment
10 or other services ~~which~~ THAT are of lifelong or extended duration.
- 11 18. "Director" means the director of the department of economic
12 security.
- 13 19. "Division" means the division of developmental disabilities in the
14 department of economic security.
- 15 20. "Epilepsy" means a neurological condition characterized by abnormal
16 electrical-chemical discharge in the brain. This discharge is manifested in
17 various forms of physical activities called seizures.
- 18 21. "Group home" means a residential setting for not more than six
19 persons with developmental disabilities that is operated by a service
20 provider under contract with the division and that provides, in a shared
21 living environment, room and board and daily habilitation. Group home does
22 not include an adult developmental home, a child developmental foster home, a
23 secure setting or an intermediate care facility for the mentally retarded.
- 24 22. "Guardian" means the person who, under court order, is appointed to
25 fulfill the powers and duties prescribed in section 14-5312. Guardian does
26 not include a guardian pursuant to section 14-5312.01.
- ~~27 23. "Guardianship services" means services offered by a provider under
28 contract with the division of developmental disabilities to act as a guardian
29 to persons with developmental disabilities where no other appropriate
30 guardian is available. The service provider shall, in addition to the
31 disclosure requirements of section 14-5106, not provide other services to the
32 ward that create a conflict of interest or jeopardize in any way its ability
33 to represent the ward as guardian.~~
- 34 ~~24.~~ 23. "Habilitation" means the process by which a person is assisted
35 to acquire and maintain those life skills that enable the person to cope more
36 effectively with ~~the~~ personal and environmental demands and to raise the
37 level of the person's physical, mental and social efficiency.
- 38 ~~25.~~ 24. "Indigent" means a developmentally disabled person whose
39 estate or parent is unable to bear the full cost of maintaining or providing
40 services for that person in a developmental disabilities program.
- 41 ~~26.~~ 25. "Individual program plan" means a written statement of
42 services to be provided to a person with developmental disabilities,
43 including habilitation goals and objectives, which is developed following
44 initial placement evaluation and revised after periodic evaluations.

1 ~~27.~~ 26. "Intermediate care facility for the mentally retarded" means a
2 facility that primarily provides health and rehabilitative services to
3 persons with developmental disabilities that are above the service level of
4 room and board or supervisory care services or personal care services as
5 defined in section 36-401 but that are less intensive than skilled nursing
6 services.

7 ~~28.~~ 27. "Large group setting" means a setting ~~which~~ THAT in addition
8 to residential care provides support services such as therapy, recreation and
9 transportation to seven or more developmentally disabled persons who require
10 intensive supervision.

11 ~~29.~~ 28. "Least restrictive alternative" means an available program or
12 facility that fosters independent living, that is the least confining for the
13 client's condition and where service and treatment are provided in the least
14 intrusive manner reasonably and humanely appropriate to the individual's
15 needs.

16 ~~30.~~ 29. "Likely to continue indefinitely" means that the developmental
17 disability has a reasonable likelihood of continuing for a protracted period
18 of time or for life.

19 ~~31.~~ 30. "Manifested before age eighteen" means that the disability
20 must be apparent and have a substantially limiting effect on a person's
21 functioning before age eighteen.

22 ~~32.~~ 31. "Mental retardation" means a condition involving subaverage
23 general intellectual functioning and existing concurrently with deficits in
24 adaptive behavior manifested before age eighteen.

25 ~~33.~~ 32. "Physician" means a person WHO IS licensed to practice
26 pursuant to title 32, chapter 13 or 17.

27 ~~34.~~ 33. "Placement evaluation" means an interview and evaluation of a
28 developmentally disabled person and a review of the person's prior medical
29 and program histories to determine the appropriate developmental disability
30 programs and services for the person and recommendations for specific program
31 placements for the person.

32 ~~35.~~ 34. "Psychologist" means a person WHO IS licensed pursuant to
33 title 32, chapter 19.1.

34 ~~36.~~ 35. "Respite services" means services that provide a short-term or
35 long-term interval of rest or relief to the care provider of a
36 developmentally disabled person.

37 ~~37.~~ 36. "Responsible person" means the parent or guardian of a
38 developmentally disabled minor, the guardian of a developmentally disabled
39 adult or a developmentally disabled adult who is a client or an applicant for
40 whom no guardian has been appointed.

41 ~~38.~~ 37. "Secure facility" means a facility that is licensed and
42 monitored by the division, that is designed to provide both residential and
43 program services within the facility and that is operated to prevent clients
44 from leaving because of the danger they may present to themselves and the
45 community.

1 ~~39.~~ 38. "Service provider" means a person or agency that provides
2 services to clients pursuant to a contract, service agreement or qualified
3 vendor agreement with the division.
4 ~~40.~~ 39. "State operated service center" means a state owned or leased
5 facility that is operated by the department and that provides temporary
6 residential care and space for child and adult services ~~which~~ THAT include
7 respite care, crisis intervention and diagnostic evaluation.
8 ~~41.~~ 40. "Subaverage general intellectual functioning" means measured
9 intelligence on standardized psychometric instruments of two or more standard
10 deviations below the mean for the tests used.
11 ~~42.~~ 41. "Substantial functional limitation" means a limitation so
12 severe that extraordinary assistance from other people, programs, services or
13 mechanical devices is required to assist the person in performing appropriate
14 major life activities.
15 ~~43.~~ 42. "Supervision" means the process by which the activities of an
16 individual with developmental disabilities are directed, influenced or
17 monitored.