



Arizona Revised Statutes Annotated [Currentness](#)

Title 36. Public Health and Safety [\(Refs & Annos\)](#)

[Chapter 5.1](#). State Department of Developmental Disabilities [\(Refs & Annos\)](#)

[Article 1](#). Administration and Regulation [\(Refs & Annos\)](#)

→ **§ 36-551. Definitions**

In this chapter, unless the context otherwise requires:

1. “Adaptive behavior” means the effectiveness or degree to which the individual meets the standards of personal independence and social responsibility expected of the person's age and cultural group.
2. “Adult developmental home” means a residential setting in a family home in which the care, physical custody and supervision of the adult client are the responsibility, under a twenty-four hour care model, of the licensee who, in that capacity, is not an employee of the division or of a service provider and the home provides the following services for a group of siblings or up to three adults with developmental disabilities:
 - (a) Room and board.
 - (b) Habilitation.
 - (c) Appropriate personal care.
 - (d) Appropriate supervision.
3. “Adult household member” means a person who is at least eighteen years of age and who resides in an adult developmental home, child developmental foster home, secure setting or home and community based service setting for at least thirty days or who resides in the household throughout the year for more than a cumulative total of thirty days.
4. “Advisory council” means the developmental disabilities advisory council.
5. “Arizona training program facility” means a state operated institution for developmentally disabled clients of the department.
6. “Attributable to cognitive disability, epilepsy, cerebral palsy or autism” means that there is a causal relationship between the presence of an impairing condition and the developmental disability.
7. “Autism” means a condition characterized by severe disorders in communication and behavior resulting in limited ability to communicate, understand, learn and participate in social relationships.
8. “Case manager” means a person who coordinates the implementation of the individual program plan of goals, objectives and appropriate services for persons with developmental disabilities.
9. “Case management” means coordinating the assistance needed by persons with developmental disabilities and their

families in order to ensure that persons with developmental disabilities attain their maximum potential for independence, productivity and integration into the community.

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

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

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

12. “Client” means a person receiving developmental disabilities services from the department.

13. “Cognitive disability” means a condition that involves subaverage general intellectual functioning, that exists concurrently with deficits in adaptive behavior manifested before age eighteen and that is sometimes referred to as intellectual disability or mental retardation.

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

15. “Consent” means voluntary informed consent. Consent is voluntary if not given as the result of coercion or undue influence. Consent is informed if the person giving the consent has been informed of and comprehends the nature, purpose, consequences, risks and benefits of the alternatives to the procedure, and has been informed and comprehends that withholding or withdrawal of consent will not prejudice the future provision of care and services to the client. In cases of unusual or hazardous treatment procedures performed pursuant to [§ 36-561, subsection A](#), experimental research, organ transplantation and nontherapeutic surgery, consent is informed if, in addition to the foregoing, the person giving the consent has been informed of and comprehends the method to be used in the proposed procedure.

16. “Daily habilitation” means habilitation as defined in this section except that the method of payment is for one unit per residential day.

17. “Department” means the department of economic security.

18. “Developmental disability” means either a strongly demonstrated potential that a child under the age of six years is developmentally disabled or will become developmentally disabled, as determined by a test performed pursuant to [§ 36-694](#) or by other appropriate tests, or a severe, chronic disability that:

- (a) Is attributable to cognitive disability, cerebral palsy, epilepsy or autism.

(b) Is manifested before age eighteen.

(c) Is likely to continue indefinitely.

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

(i) Self-care.

(ii) Receptive and expressive language.

(iii) Learning.

(iv) Mobility.

(v) Self-direction.

(vi) Capacity for independent living.

(vii) Economic self-sufficiency.

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

19. "Director" means the director of the department of economic security.

20. "Division" means the division of developmental disabilities in the department of economic security.

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

22. "Group home" means a residential setting for not more than six persons with developmental disabilities that is operated by a service provider under contract with the division and that provides, in a shared living environment, room and board and daily habilitation. Group home does not include an adult developmental home, a child developmental foster home, a secure setting or an intermediate care facility for the mentally retarded.

23. "Guardian" means the person who, under court order, is appointed to fulfill the powers and duties prescribed in [§ 14-5312](#). Guardian does not include a guardian pursuant to [§ 14-5312.01](#).

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

25. "Indigent" means a developmentally disabled person whose estate or parent is unable to bear the full cost of maintaining or providing services for that person in a developmental disabilities program.

26. "Individual program plan" means a written statement of services to be provided to a person with developmental disabilities, including habilitation goals and objectives, which is developed following initial placement evaluation and

revised after periodic evaluations.

27. “Intermediate care facility for the mentally retarded” means a facility that primarily provides health and rehabilitative services to persons with developmental disabilities that are above the service level of room and board or supervisory care services or personal care services as defined in [§ 36-401](#) but that are less intensive than skilled nursing services.

28. “Large group setting” means a setting that in addition to residential care provides support services such as therapy, recreation and transportation to seven or more developmentally disabled persons who require intensive supervision.

29. “Least restrictive alternative” means an available program or facility that fosters independent living, that is the least confining for the client’s condition and where service and treatment are provided in the least intrusive manner reasonably and humanely appropriate to the individual’s needs.

30. “Likely to continue indefinitely” means that the developmental disability has a reasonable likelihood of continuing for a protracted period of time or for life.

31. “Manifested before age eighteen” means that the disability must be apparent and have a substantially limiting effect on a person’s functioning before age eighteen.

32. “Physician” means a person who is licensed to practice pursuant to title 32, chapter 13 or 17. [\[FN1\]](#)

33. “Placement evaluation” means an interview and evaluation of a developmentally disabled person and a review of the person’s prior medical and program histories to determine the appropriate developmental disability programs and services for the person and recommendations for specific program placements for the person.

34. “Psychologist” means a person who is licensed pursuant to title 32, chapter 19.1. [\[FN2\]](#)

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

36. “Responsible person” means the parent or guardian of a developmentally disabled minor, the guardian of a developmentally disabled adult or a developmentally disabled adult who is a client or an applicant for whom no guardian has been appointed.

37. “Secure facility” means a facility that is licensed and monitored by the division, that is designed to provide both residential and program services within the facility and that is operated to prevent clients from leaving because of the danger they may present to themselves and the community.

38. “Service provider” means a person or agency that provides services to clients pursuant to a contract, service agreement or qualified vendor agreement with the division.

39. “State operated service center” means a state owned or leased facility that is operated by the department and that provides temporary residential care and space for child and adult services that include respite care, crisis intervention and diagnostic evaluation.

40. “Subaverage general intellectual functioning” means measured intelligence on standardized psychometric instruments of two or more standard deviations below the mean for the tests used.

41. “Substantial functional limitation” means a limitation so severe that extraordinary assistance from other people, programs, services or mechanical devices is required to assist the person in performing appropriate major life activities.

42. “Supervision” means the process by which the activities of an individual with developmental disabilities are directed, influenced or monitored.

CREDIT(S)

Added by Laws 1970, Ch. 168, § 3, eff. July 1, 1970. Amended by Laws 1973, Ch. 158, § 104; Laws 1978, Ch. 198, § 11; Laws 1981, Ch. 1, § 11; Laws 1981, Ch. 195, § 2; Laws 1985, Ch. 313, § 3; Laws 1987, Ch. 363, § 18, eff. May 22, 1987; [Laws 1990, Ch. 207, § 5](#); [Laws 1990, Ch. 258, § 8](#); [Laws 1990, Ch. 333, § 6, eff. Sept. 27, 1990, retroactively effective to Dec. 19, 1988](#); [Laws 1991, Ch. 119, § 4](#); [Laws 1991, Ch. 173, § 11](#); [Laws 1991, Ch. 209, § 6](#); [Laws 1991, Ch. 257, § 15](#); [Laws 1992, Ch. 319, § 30](#); [Laws 1992, Ch. 355, § 2](#); [Laws 1993, Ch. 145, § 1](#); [Laws 1994, Ch. 214, § 2](#); [Laws 1995, Ch. 250, § 9, eff. March 1, 1996](#); [Laws 1997, Ch. 159, § 1](#); [Laws 1999, Ch. 83, § 14](#); [Laws 2001, Ch. 344, § 33, eff. Oct. 1, 2001](#); [Laws 2005, Ch. 321, § 1](#); [Laws 2006, Ch. 197, § 1](#).

[\[FN1\] Sections 32-1401 et seq., 32-1800 et seq.](#)

[\[FN2\] Section 32-2061 et seq.](#)

HISTORICAL AND STATUTORY NOTES

Laws 1970, Ch. 168, § 1 provided:

“It is the intent of the legislature that:

“1. Planning and implementation of mental retardation programs and services of the state shall be integrated and coordinated by a state department of mental retardation.

“2. When and if the legislature creates an authority responsible for the coordination of all administrative programs and services in human resource agencies, the department of mental retardation shall be an administrative department of the coordinating authority.”

Laws 1990, Ch. 333, § 45, subsec. B, provides:

“Sec. 45. Retroactivity”

“B. Section 36-551, Arizona Revised Statutes, as amended by this act, is effective retroactively to December 19, 1988.”

The amendment of this section by Laws 1991, Ch. 209, § 6 was repealed by Laws 1992, Ch. 319, § 31 and by Laws 1992, Ch. 355, § 4, subsec. A.

The 1992 amendments of this section by Chs. 319 and 355 explicitly amended the 1991 amendments of this section by Ch. 119, § 4, Ch. 173, § 11, and Ch. 257, § 15.

Laws 1992, Ch. 319, § 1, par.17, provides:

“Section 1. Purpose”

“17. Section 36-551, Arizona Revised Statutes, was amended by Laws 1991, chapter 119, § 4, Laws 1991, chapter 173, § 11, Laws 1991, chapter 209, § 6 and Laws 1991, chapter 257, § 15. The chapter 209 version could not be blended because it was inconsistent with the blend version. To accomplish the intent of these enactments, in this act the blend version of § 36-551, Arizona Revised Statutes, is amended to incorporate the amendment made by Laws 1991, chapter 209 and the chapter 209 version is repealed.”

Laws 1995, Ch. 250, § 20, as amended by Laws 1996, Ch. 359, § 9; Laws 1998, Ch. 113, § 61; Laws 1999, Ch. 292, § 6; Laws 2001, Ch. 185, § 2, provides:

“Sec. 20. Delayed effective dates

“A. Section 3 of this act is effective on October 1, 1995.

“B. Sections 9 through 13, 15 and 16 of this act are effective on March 1, 1996.

“C. Sections 1, 4, 5, 8 and 14 are effective on October 1, 2003.”

Laws 1997, Ch. 299, § 8, which purportedly amended Laws 1995, Ch. 250, § 20, as amended by Laws 1996, Ch. 359, § 9, and related to delayed effective dates, was itself repealed by Laws 1998, Ch. 113, § 62.

Laws 1998, Ch. 113, § 1, par. 36, provides:

“Section 1. Purpose.”

“36. Laws 1995, chapter 250, § 20 was amended by Laws 1997, chapter 299, § 8. However, the amendment of this section was not included in the title of the act in violation of [article IV, part 2, § 13, Constitution of Arizona](#). Also, this enactment did not reflect the amendment made by Laws 1996, chapter 359, § 9. In order to correct a potentially defective enactment, this act amends the previous valid version of Laws 1995, chapter 250, § 20 to incorporate the amendment made by Laws 1997, chapter 299, § 8 and Laws 1997, chapter 299, § 8 is repealed.”

Laws 1999, Ch. 211, § 1, par. 37, provides:

“Section 1. Purpose”

“37. Laws 1995, chapter 250, § 20 was amended by Laws 1998, chapter 113, § 61 to make correctional changes and by Laws 1998, chapter 227, § 1 to make substantive date changes. These two enactments could not be combined because the Laws 1998, chapter 227 enactment did not reflect the amendment made by Laws 1996, chapter 359, § 9. In order to correct that technical problem and combine these two versions, in this act Laws 1995, chapter 250, § 20, as amended by Laws 1996, chapter 359, § 9 and Laws 1998, chapter 113, § 61, is amended to incorporate the amendments made by Laws 1998, chapter 227 and the chapter 227 version is repealed.”

Laws 1999, Ch. 211, § 68, provides:

“Sec. 68. Repeal

“Laws 1998, chapter 227, § 1 is repealed.”

Laws 1999, Ch. 211, § 73, subsec. A, provides:

“Sec. 73. Retroactive application

“A. Sections 6, 7, 12, 13, 51, 52, 67 and 68 of this act apply retroactively to August 21, 1998.”

Laws 1999, Ch. 292, § 7, provides:

“Sec. 7. Repeal

“Laws 1998, chapter 227, § 1 is repealed.”

Laws 2000, Ch. 32, § 1, par. 12, provides:

“Section 1. Purpose

“12. Laws 1995, chapter 250, § 20, as amended by Laws 1996, chapter 359, § 9 and Laws 1998, chapter 113, § 61, was amended by both Laws 1999, chapter 211, § 67 and Laws 1999, chapter 292, § 6. Laws 1999, chapter 211 made only correctional changes, and Laws 1999, chapter 292 made a substantive date change. In order to resolve the double amendment, this act repeals Laws 1999, chapter 211, § 67.”

Laws 2000, Ch. 32, § 20, provides:

“Sec. 20. Repeal

“Laws 1999, chapter 211, § 67 is repealed.”

For conditional enactment provision of Laws 2001, Ch. 344, and occurrence of the condition, see Historical and Statutory Notes at Ch. 29, preceding § 36-2901.

Another § 36-551, added by Laws 1974, Ch. 175, § 2, was renumbered as § 36-530.

Reviser's Notes:

1978 Note. Pursuant to authority of § 41-1304.02, a comma was added following the word “foregoing” in the last sentence of [former] paragraph 5 [defining “consent”].

1985 Note. By containing a description of an amendment which was not made by the chapter, the bill title of Laws 1985, Ch. 313 may have violated the provisions of [Constitution of Arizona Art. IV, part 2, § 13](#).

1990 Note. Prior to the 1991 amendments, this section contained the amendments made by Laws 1990, Ch. 207, § 5 and Ch. 258, § 8 and Ch. 333, § 6 which were blended together pursuant to authority of § 41-1304.03. Pursuant to authority of § 41-1304.02, in [former] paragraph 9 [defining “consent”], last sentence the spelling of “non-therapeutic” was corrected.

1991 Notes. Prior to the 1992 amendments, this section contained the amendments made by Laws 1991, Ch. 119, sec.

4, Ch. 173, sec. 11 and Ch. 257, sec. 15 that were blended together pursuant to authority of § 41-1304.03. Pursuant to authority of § 41-1304.02, in paragraph 15 in Laws 1991, Chs. 173 and 257 the stricken reference to “17” was substituted for “14” to correct an electronic data base error.

1992 Note. Prior to the 1993 amendment, this section contained the amendments made by Laws 1992, Ch. 319, sec. 30 and Ch. 355, sec. 2 that were blended together pursuant to authority of § 41-1304.03.

1994 Note. Pursuant to § 41-1304.02, after the paragraph designation “20” a period was inserted as a correction of a manifest clerical error.

1997 Note. In the chapter version in paragraph 2, the words “for a group of siblings or” are shown as existing, or downstyle, language, but they are new. Pursuant to authority of § 41-1304.02, to correct a manifest clerical error, in the chapter version the words “for a group of siblings or” are shown as new, or upstyle, language.

CROSS REFERENCES

Confidentiality of records, see [§ 36-568.01](#).
 Implementation date, long-term care system, see [§ 36-2932](#).
 Local transportation assistance fund monies, developmentally disabled persons, nonresidential outpatient programs or services, see [§ 28-8103](#).
 Long-term care system,
 Eligibility, see [§§ 36-2933, 36-2934](#).
 Preadmission screening, see [§ 36-2936](#).
 Private investigators, license applications, see [§ 32-2423](#).
 Program contractor, see [§ 36-2940](#).
 Qualified plan health service contracts, bidding, see [§ 36-2944](#).
 Services, see [§ 36-2939](#).
 Residential facilities, zoning, see [§ 36-582](#).

ADMINISTRATIVE CODE REFERENCES

Arizona Health Care Cost Containment System (AHCCCS),
 Long-term care system, see [A.A.C. R9-28-101 et seq.](#)
 Provider standards, see [A.A.C. R9-28-502](#).
 Health care cost containment system, medicare cost sharing program, see [A.A.C. R9-28-101, R9-28-205, R9-29-101 et seq.](#)
 Child care facilities, see [A.A.C. R9-5-101](#).
 Covered services, Home and Community Based Services (HCBS), see [A.A.C. R9-28-205](#).
 Department of health services, see [A.A.C. R9-3-101 et seq.](#)
 Eligibility for developmental disabilities services, see [A.A.C. R6-6-301 et seq.](#)
 Licensure requirements, see [A.A.C. R9-33-101](#).

LAW REVIEW AND JOURNAL COMMENTARIES

Zoning the mentally retarded into single-family residential areas. Ariz.St.L.J. 2, 1979, p. 385.

RESEARCH REFERENCES

Forms

[7 Ariz. Legal Forms R 11.1](#), Definition And Effect Of Incompetency.

NOTES OF DECISIONS

Individual program plan [1](#)

[1](#). Individual program plan

Individual Support Plan (ISP), which is created for each developmentally disabled person served by state Division of Developmental Disabilities, does not entitle a developmentally disabled person to services that the Division lacks the funds to provide. [Arizona Association of Providers for Persons with Disabilities v. State \(App. Div.1 2009\) 2009 WL 1156492](#), stay denied , review denied. [Health 476](#)

A. R. S. § 36-551, AZ ST § 36-551

Current through the Sixth Special Session, and legislation effective May 7, 2010 of the Second Regular Session of the Forty-Ninth Legislature (2010).

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