

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

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)

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

2 Section 1. Purpose

3 1. Section 8-202, Arizona Revised Statutes, was amended by Laws
4 2021, chapter 222, section 1, chapter 240, section 1 and chapter 435,
5 section 1. The chapter 435 version could not be blended because it failed
6 to amend the chapter 222 version, which was an emergency enactment, and
7 therefore did not comply with article IV, part 2, section 14, Constitution
8 of Arizona. To accomplish the intent of these enactments, this act amends
9 section 8-202, Arizona Revised Statutes, as amended by Laws 2021, chapter
10 222, section 1 and chapter 240, section 1, to incorporate the amendments
11 made by Laws 2021, chapter 435 and repeals the chapter 435 version.

12 2. Section 13-3415, Arizona Revised Statutes, was amended by Laws
13 2021, chapter 222, section 5 and chapter 372, section 1. The chapter 372
14 version could not be blended because it failed to amend the chapter 222
15 version, which was an emergency enactment, and therefore did not comply
16 with article IV, part 2, section 14, Constitution of Arizona. To
17 accomplish the intent of these enactments, this act amends section
18 13-3415, Arizona Revised Statutes, as amended by Laws 2021, chapter 222,
19 section 5, to incorporate the amendments made by Laws 2021, chapter 372
20 and repeals the chapter 372 version.

21 3. Section 21-102, Arizona Revised Statutes, was amended by Laws
22 2021, chapter 160, section 1 and chapter 206, section 1. The chapter 206
23 version could not be blended because it failed to amend the chapter 160
24 version, which was an emergency enactment, and therefore did not comply
25 with article IV, part 2, section 14, Constitution of Arizona. To
26 accomplish the intent of these enactments, this act amends section 21-102,
27 Arizona Revised Statutes, as amended by Laws 2021, chapter 160, section 1,
28 to incorporate the amendments made by Laws 2021, chapter 206 and repeals
29 the chapter 206 version.

30 4. Section 36-557, Arizona Revised Statutes, was amended by Laws
31 2021, chapter 60, section 5 and chapter 409, section 8. The chapter 60
32 version could not be blended because of the delayed effective date. In
33 order to combine these versions, this act amends the Laws 2021, chapter
34 409 version of section 36-557, Arizona Revised Statutes, to incorporate
35 the amendments made by Laws 2021, chapter 60 and repeals the chapter 60
36 version.

37 5. Section 36-591, Arizona Revised Statutes, was amended by Laws
38 2021, chapter 60, section 8 and chapter 409, section 9. The chapter 60
39 version could not be blended because of the delayed effective date. In
40 order to combine these versions, this act amends the Laws 2021, chapter
41 409 version of section 36-591, Arizona Revised Statutes, to incorporate
42 the amendments made by Laws 2021, chapter 60 and repeals the chapter 60
43 version.

44 6. Section 38-847, Arizona Revised Statutes, was amended by Laws
45 2021, chapter 34, section 2 and chapter 251, section 1. The chapter 251

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

7 7. Section 38-893, Arizona Revised Statutes, was amended by Laws
8 2021, chapter 34, section 5 and chapter 251, section 5. The chapter 251
9 version amended the chapter 34 version. The chapter 34 version was not
10 effective until January 1, 2022. The chapter 251 version was effective on
11 September 29, 2021. In order to correct a defective enactment, this act
12 amends the chapter 34 version of section 38-893, Arizona Revised Statutes,
13 to incorporate the amendments made by chapter 251 and repeals the
14 chapter 251 version.

15 Sec. 2. Section 8-202, Arizona Revised Statutes, as amended by Laws
16 2021, chapter 222, section 1 and chapter 240, section 1, is amended to
17 read:

18 8-202. Jurisdiction of juvenile court

19 A. The juvenile court has original jurisdiction over all
20 delinquency proceedings brought under the authority of this title.

21 B. The juvenile court has exclusive original jurisdiction over all
22 proceedings brought under the authority of this title except for
23 delinquency proceedings.

24 C. The juvenile court may consolidate any matter, except that the
25 juvenile court shall not consolidate any of the following:

26 1. A criminal proceeding that is filed in another division of
27 superior court and that involves a child who is subject to the
28 jurisdiction of the juvenile court.

29 2. A delinquency proceeding with any other proceeding that does not
30 involve delinquency, unless the juvenile delinquency adjudication
31 proceeding is not heard at the same time or in the same hearing as a
32 nondelinquency proceeding.

33 D. The juvenile court has jurisdiction of proceedings to:

34 1. Obtain judicial consent to the marriage, employment or
35 enlistment in the armed services of a child, if consent is required by
36 law.

37 2. In an action in which parental rights are terminated pursuant to
38 chapter 4, article 5 or 11 of this title, change the name of a minor child
39 who is the subject of the action. If the minor child who is the subject
40 of the action is twelve years of age or older, the court shall consider
41 the wishes of the child with respect to the name change.

42 E. The juvenile court has jurisdiction over civil traffic
43 violations, civil marijuana violations and offenses listed in section
44 8-323, subsection B that are committed within the county by persons who
45 are under eighteen years of age unless the presiding judge of the county

1 declines jurisdiction of these cases. The presiding judge of the county
2 may decline jurisdiction of civil traffic violations and civil marijuana
3 violations committed within the county by juveniles if the presiding judge
4 finds that the declination would promote the more efficient use of limited
5 judicial and law enforcement resources located within the county. If the
6 presiding judge declines jurisdiction, juvenile civil traffic violations
7 and civil marijuana violations shall be processed, heard and disposed of
8 in the same manner and with the same penalties as adult civil traffic
9 violations.

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

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

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

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

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

37 1. Jurisdiction is terminated by order of the court.

38 2. The juvenile is discharged from the jurisdiction of the
39 department of juvenile corrections pursuant to section 41-2820.

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

42 1. The juvenile court transfers jurisdiction pursuant to section
43 8-327.

44 2. The juvenile is charged as an adult with an offense listed in
45 section 13-501.

1 J. The juvenile court shall retain jurisdiction after a juvenile's
2 eighteenth birthday for the purpose of:

3 1. Designating an undesignated felony offense as a misdemeanor or
4 felony, including after an adjudication is set aside pursuant to section
5 8-348.

6 2. Modifying an outstanding monetary obligation imposed by the
7 court except for victim restitution.

8 3. Implementing section 36-2862.

9 K. The juvenile court has jurisdiction to make the initial
10 determination prescribed in section 8-829 whether the voluntary
11 participation of a qualified young adult in an extended foster care
12 program pursuant to section 8-521.02 is in the young adult's best
13 interests.

14 Sec. 3. Repeal

15 Section 8-202, Arizona Revised Statutes, as amended by Laws 2021,
16 chapter 435, section 1, is repealed.

17 Sec. 4. Section 13-3415, Arizona Revised Statutes, as amended by
18 Laws 2021, chapter 222, section 5, is amended to read:

19 13-3415. Possession, manufacture, delivery and advertisement
20 of drug paraphernalia; classification; civil
21 forfeiture; factors; definitions

22 A. Except as provided in section 36-2852 and section 36-2853,
23 subsection C, it is unlawful for any person to use, or to possess with
24 intent to use, drug paraphernalia to plant, propagate, cultivate, grow,
25 harvest, manufacture, compound, convert, produce, process, prepare, test,
26 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or
27 otherwise introduce into the human body a drug in violation of this
28 chapter. Any person who violates this subsection is guilty of a class 6
29 felony.

30 B. Except as provided in section 36-2852 and section 36-2853,
31 subsection C, it is unlawful for any person to deliver, possess with
32 intent to deliver or manufacture with intent to deliver drug paraphernalia
33 knowing, or under circumstances where one reasonably should know, that it
34 will be used to plant, propagate, cultivate, grow, harvest, manufacture,
35 compound, convert, produce, process, prepare, test, analyze, pack, repack,
36 store, contain, conceal, inject, ingest, inhale or otherwise introduce
37 into the human body a drug in violation of this chapter. Any person who
38 violates this subsection is guilty of a class 6 felony.

39 C. It is unlawful for a person to place in a newspaper, magazine,
40 handbill or other publication any advertisement knowing, or under
41 circumstances where one reasonably should know, that the purpose of the
42 advertisement, in whole or in part, is to promote the sale of objects
43 designed or intended for use as drug paraphernalia. Any person who
44 violates this subsection is guilty of a class 6 felony.

1 D. All drug paraphernalia is subject to forfeiture pursuant to
2 chapter 39 of this title. The failure to charge or acquittal of an owner
3 or anyone in control of drug paraphernalia in violation of this chapter
4 does not prevent a finding that the object is intended for use or designed
5 for use as drug paraphernalia.

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

9 1. Statements by an owner or by anyone in control of the object
10 concerning its use.

11 2. Prior convictions, if any, of an owner, or of anyone in control
12 of the object, under any state or federal law relating to any drug.

13 3. The proximity of the object, in time and space, to a direct
14 violation of this chapter.

15 4. The proximity of the object to drugs.

16 5. The existence of any residue of drugs on the object.

17 6. Direct or circumstantial evidence of the intent of an owner, or
18 of anyone in control of the object, to deliver it to persons whom he
19 knows, or should reasonably know, intend to use the object to facilitate a
20 violation of this chapter.

21 7. Instructions, oral or written, provided with the object
22 concerning its use.

23 8. Descriptive materials accompanying the object that explain or
24 depict its use.

25 9. National and local advertising concerning its use.

26 10. The manner in which the object is displayed for sale.

27 11. Whether the owner, or anyone in control of the object, is a
28 legitimate supplier of like or related items to the community, such as a
29 licensed distributor or dealer of tobacco products.

30 12. Direct or circumstantial evidence of the ratio of sales of the
31 object to the total sales of the business enterprise.

32 13. The existence and scope of legitimate uses for the object in
33 the community.

34 14. Expert testimony concerning its use.

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

37 1. "Drug" means any narcotic drug, dangerous drug, marijuana or
38 peyote.

39 2. "Drug paraphernalia" means all equipment, products and materials
40 of any kind that are used, intended for use or designed for use in
41 planting, propagating, cultivating, growing, harvesting, manufacturing,
42 compounding, converting, producing, processing, preparing, testing,
43 analyzing, packaging, repackaging, storing, containing, concealing,
44 injecting, ingesting, inhaling or otherwise introducing into the human
45 body a drug in violation of this chapter. Drug paraphernalia includes:

- 1 (a) Kits used, intended for use or designed for use in planting,
2 propagating, cultivating, growing or harvesting any species of plant that
3 is a drug or from which a drug can be derived.
- 4 (b) Kits used, intended for use or designed for use in
5 manufacturing, compounding, converting, producing, processing or preparing
6 drugs.
- 7 (c) Isomerization devices used, intended for use or designed for
8 use in increasing the potency of any species of plant that is a drug.
- 9 (d) Testing equipment used, intended for use or designed for use in
10 identifying or analyzing the strength, effectiveness or purity of drugs,
11 OTHER THAN NARCOTIC DRUG TESTING PRODUCTS THAT ARE USED TO DETERMINE
12 WHETHER A CONTROLLED SUBSTANCE CONTAINS FENTANYL OR A FENTANYL ANALOG.
- 13 (e) Scales and balances used, intended for use or designed for use
14 in weighing or measuring drugs.
- 15 (f) Diluents and adulterants, such as quinine hydrochloride,
16 mannitol, mannite, dextrose and lactose, used, intended for use or
17 designed for use in cutting drugs.
- 18 (g) Separation gins and sifters used, intended for use or designed
19 for use in removing twigs and seeds from, or in otherwise cleaning or
20 refining, marijuana.
- 21 (h) Blenders, bowls, containers, spoons and mixing devices used,
22 intended for use or designed for use in compounding drugs.
- 23 (i) Capsules, balloons, envelopes and other containers used,
24 intended for use or designed for use in packaging small quantities of
25 drugs.
- 26 (j) Containers and other objects used, intended for use or designed
27 for use in storing or concealing drugs.
- 28 (k) Hypodermic syringes, needles and other objects used, intended
29 for use or designed for use in parenterally injecting drugs into the human
30 body.
- 31 (l) Objects used, intended for use or designed for use in
32 ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a
33 dangerous drug, hashish or hashish oil into the human body, such as:
- 34 (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes
35 with or without screens, permanent screens, hashish heads or punctured
36 metal bowls.
- 37 (ii) Water pipes.
- 38 (iii) Carburetion tubes and devices.
- 39 (iv) Smoking and carburetion masks.
- 40 (v) Roach clips, meaning objects used to hold burning material,
41 such as a marijuana cigarette, that has become too small or too short to
42 be held in the hand.
- 43 (vi) Miniature cocaine spoons and cocaine vials.
- 44 (vii) Chamber pipes.
- 45 (viii) Carburetor pipes.

- 1 (ix) Electric pipes.
- 2 (x) Air-driven pipes.
- 3 (xi) Chillums.
- 4 (xii) Bongs.
- 5 (xiii) Ice pipes or chillers.

6 Sec. 5. Repeal

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

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

11 21-102. Juries; size; degree of unanimity required; waiver;
12 right to jury determination in certain civil
13 actions

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

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

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

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

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

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

43 Sec. 7. Repeal

44 Section 21-102, Arizona Revised Statutes, as amended by Laws 2021,
45 chapter 206, section 1, is repealed.

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

3 36-557. Community developmental disability services; service
4 providers

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

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

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

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

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

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

44 2. If state funding is provided for a particular program the
45 contractor, to the extent of positions available that are being purchased

1 by the department, shall provide services to a client with a developmental
2 disability who has been evaluated and placed by the department.

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

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

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

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

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

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

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

41 3. Provide for mandatory investigation by the department in
42 response to complaints within ten working days, except that in those
43 instances that pose a danger to the client, the department shall conduct
44 the investigation immediately. Health and safety complaints related to
45 group homes shall be referred to the department of health services on

1 receipt. The department of health services shall share all incident
2 reports related to health and safety with the division of developmental
3 disabilities.

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

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

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

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

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

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

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

38 K. Contracts for client services issued by the department shall
39 include language outlining the provisions for a grievance and appeal
40 procedure. The director shall provide notice to service providers not
41 less than thirty days before the issuance of an amendment to a qualified
42 vendor agreement. The decision of the director regarding qualified vendor
43 agreement amendments may be appealed pursuant to title 41, chapter 6,
44 article 10. The grievance process applicable to these contracts shall
45 comply with title XIX requirements.

1 L. As a condition of contracts with any developmental disabilities
2 service provider, the director shall require terms that conform with state
3 and federal laws, title XIX statutes and regulations and quality
4 standards. The director shall further require contract terms that ensure
5 performance by the provider of the provisions of each contract executed
6 pursuant to this article.

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

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

22 O. Service providers are authorized to engage in the following
23 activities in accordance with a client's individual program plan:

24 1. Administer medications, including assisting with the client's
25 self-administration of medications.

26 2. Log, store, remove and dispose of medications.

27 3. Maintain medications and protocols for direct care.

28 4. Serve as the client's representative payee if requested by the
29 client or the client's guardian and approved by the payer.

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

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

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

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

1 Sec. 9. Repeal
2 Section 36-557, Arizona Revised Statutes, as amended by Laws 2021,
3 chapter 60, section 5, is repealed.

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

6 36-591. Group homes; licensing; notification requirements;
7 exception; annual inspection

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

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

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

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

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

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

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

25 3. Of substantiated complaints regarding health and safety.

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

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

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

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

41 Sec. 11. Repeal

42 Section 36-591, Arizona Revised Statutes, as amended by Laws 2021,
43 chapter 60, section 8, is repealed.

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

3 38-847. Local boards

4 A. To the extent outlined in this section, the administration of
5 the system and responsibility for making the provisions of the system
6 effective for each employer are vested in a local board. The department
7 of public safety, the Arizona game and fish department, the department of
8 emergency and military affairs, the university of Arizona, Arizona state
9 university, northern Arizona university, each county sheriff's office,
10 each county attorney's office, each county parks department, each
11 municipal fire department, each eligible fire district, each community
12 college district, each municipal police department, the department of law,
13 the department of liquor licenses and control, the Arizona department of
14 agriculture, the Arizona state parks board, each Indian reservation police
15 agency and each Indian reservation firefighting agency shall have a local
16 board. A nonprofit corporation operating pursuant to sections 28-8423 and
17 28-8424 shall have one local board for all of its members. Each local
18 board shall be constituted as follows:

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

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

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

42 4. For joint powers authorities organized pursuant to section
43 48-805.01, the joint powers authority board chairperson or a designee
44 approved by the governing body, two members elected by secret ballot by
45 members employed by the joint powers authority and two citizens, one of

1 whom is a resident of one of the partner entities and one of whom has
2 experience in personnel administration but who is not required to be a
3 resident of a partner entity.

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

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

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

36 1. To decide all questions of eligibility for membership and
37 disability and in the line of duty death benefits under the system.

38 2. To prescribe procedures to be followed by claimants in filing
39 applications for disability and in the line of duty death benefits.

40 3. To make a determination as to the right of any claimant to a
41 disability and in the line of duty death benefit, to issue opinions on
42 questions of whether benefits are consistent with and allowable under the
43 system and to afford any claimant or the board of trustees, or both, a
44 right to a rehearing on the original determination. Except as otherwise
45 required by law, unless all parties involved in a matter presented to the

1 local board for determination otherwise agree, the local board shall
2 commence a hearing on the matter within ninety days after the date the
3 matter is presented to the local board for determination. If a local
4 board fails to commence a hearing as provided in this paragraph, on a
5 matter presented to the local board for determination, the relief demanded
6 by the party petitioning the local board is deemed granted and approved by
7 the local board.

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

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

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

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

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

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

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

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

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

1 local board procedure that are issued by the board of trustees' fiduciary
2 counsel to adjudicate the claim or dispute.

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

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

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

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

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

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

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

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

1 M. The local board shall adopt such bylaws as it deems desirable.
2 The local board shall elect a secretary who may, but need not, be a member
3 of the local board. The secretary of the local board shall keep a record
4 and prepare minutes of all meetings in compliance with chapter 3, article
5 3.1 of this title and forward the minutes and all necessary communications
6 to the board of trustees as prescribed by subsection G of this section.
7 Within one hundred eighty days after election, the local board's secretary
8 shall complete local board training as prescribed by the board of
9 trustees, including open meeting laws, ethics, legal review and fiduciary
10 responsibilities and duties.

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

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

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

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

39 R. An employer and a local board shall submit any reports, data,
40 paperwork or other materials that are requested by the board of trustees
41 for any reason, including local board action or inaction or to investigate
42 a complaint regarding a local board. If the board of trustees or its
43 designee through an audit or investigation finds that the local board is
44 not in compliance with statute or the model uniform rules for local board
45 procedure, the board of trustees shall notify the local board of the

1 noncompliance and the local board shall have sixty days to take corrective
2 action. If the local board fails to take adequate corrective action, the
3 board of trustees may act on behalf of the local board until the matter is
4 resolved. The board of trustees or its designee shall work with the local
5 board members to take the appropriate corrective actions, including
6 appointing any vacant or noncompliant local board member positions, if
7 necessary, to bring the local board and its membership, policies and
8 procedures into compliance.

9 Sec. 13. Repeal

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

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

14 38-893. Local boards; powers and duties; rules; hearings;
15 administrative review

16 A. To the extent outlined in this section, the administration of
17 the plan and the responsibility for making the provisions of the plan
18 effective for each employer are vested in a local board. The state
19 department of corrections, the department of juvenile corrections, the
20 department of public safety, each participating county sheriff's
21 department, each participating city or town, each participating employer
22 of full-time dispatchers for eligible groups as defined in section 38-842
23 and the judiciary shall have a local board. Each local board is
24 constituted as follows:

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

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

38 3. For political subdivisions, the mayor or chief elected official
39 or a designee of the mayor or chief elected official approved by the
40 respective governing body as chairperson, two members elected by secret
41 ballot by members employed by the appropriate employer and two citizens,
42 one of whom shall be the head of the merit system if it exists for the
43 group of members, appointed by the mayor or chief elected official and
44 with the approval of the city council or governing body of the employer.

1 4. For the judiciary, two members who are elected by secret ballot
2 by members who are employed as a probation, surveillance or juvenile
3 detention officer, a designee of the chief justice of the Arizona supreme
4 court and two citizens, one of whom shall be the head of a human resource
5 department for the group of members, appointed by the chief justice.

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

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

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

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

38 2. Make a determination as to the right of a claimant to a
39 disability or in the line of duty death benefit, issue opinions on
40 questions of whether benefits are consistent with and allowable under the
41 plan and afford a claimant or the board of trustees, or both, a right to a
42 rehearing on the original determination. Except as otherwise required by
43 law, unless all parties involved in a matter presented to the local board
44 for determination otherwise agree, the local board shall commence a
45 hearing on the matter within ninety days after the date the matter is

1 presented to the local board for determination. If a local board fails to
2 commence a hearing as provided in this paragraph, on a matter presented to
3 the local board for determination, the relief demanded by the party
4 petitioning the local board is deemed granted and approved by the local
5 board.

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

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

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

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

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

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

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

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

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

42 F. A local board shall establish and adopt rules as it deems
43 necessary for its administration and to adjudicate claims or disputes. At
44 a minimum the board's rules shall incorporate the model uniform rules for
45 local board procedure that are issued by the board of trustees. All rules

1 and decisions of a local board shall be uniformly and consistently applied
2 to all members in similar circumstances. If a claim or dispute is
3 presented to a local board for determination but the local board has not
4 yet adopted uniform rules of procedure for adjudication of the claim or
5 dispute, the local board shall adopt and use the model uniform rules of
6 local board procedure that are issued by the board of trustees' fiduciary
7 counsel to adjudicate the claim or dispute.

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

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

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

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

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

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

1 K. When making a ruling, determination or calculation, the local
2 board is entitled to rely on information furnished by the employer, the
3 board of trustees, independent legal counsel or the actuary for the plan.

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

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

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

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

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

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

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

43 S. An employer and a local board shall submit any reports, data,
44 paperwork or other materials that are requested by the board of trustees
45 for any reason, including local board action or inaction or to investigate

1 a complaint regarding a local board. If the board of trustees or its
2 designee through an audit or investigation finds that the local board is
3 not in compliance with statute or the model uniform rules for local board
4 procedure, the board of trustees shall notify the local board of the
5 noncompliance and the local board shall have sixty days to take corrective
6 action. If the local board fails to take adequate corrective action, the
7 board of trustees may act on behalf of the local board until the matter is
8 resolved. The board of trustees or its designee shall work with the local
9 board members to take the appropriate corrective actions, including
10 appointing any vacant or noncompliant local board member positions, if
11 necessary, to bring the local board and its membership, policies and
12 procedures into compliance.

13 Sec. 15. Repeal

14 Section 38-893, Arizona Revised Statutes, as amended by Laws 2021,
15 chapter 251, section 5, is repealed.

16 Sec. 16. Retroactivity

17 A. Sections 2, 3, 4, 5, 6 and 7 of this act apply retroactively to
18 from and after September 28, 2021.

19 B. Sections 12, 13, 14 and 15 of this act apply retroactively to
20 from and after December 31, 2021.

21 C. Sections 8, 9, 10 and 11 of this act apply retroactively to from
22 and after June 30, 2022.