

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SENATE BILL 1257

AN ACT

AMENDING SECTIONS 8-527, 11-297, 15-765, 15-1181, 36-141, 36-189, 36-201, 36-202, 36-203, 36-204, 36-205, 36-206, 36-208, 36-209, 36-210, 36-212 AND 36-213, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-216 AND 36-217; AMENDING SECTIONS 36-501 AND 36-502, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-502.01; REPEALING SECTION 36-503.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-504, 36-511, 36-518, 36-520, 36-521, 36-522, 36-523, 36-531, 36-535, 36-540.02, 36-541.01, 36-543, 36-545.01, 36-545.05, 36-545.06, 36-545.07, 36-550, 36-550.01, 36-550.02, 36-550.03, 36-550.04, 36-550.06, 36-550.07, 36-556, 36-2021, 36-2022, 36-2023, 36-2024, 36-2026, 36-2028, 36-2029, 36-2051, 36-2052, 36-2901, 36-2907, 36-2989 AND 36-3401, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3402, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-3403, 36-3404, 36-3405, 36-3406, 36-3407, 36-3408, 36-3409, 36-3410 AND 36-3411, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3412, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 34, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-3412; AMENDING SECTION 36-3413, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3414, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-3415, 36-3431, 36-3432, 36-3433, 36-3434, 36-3435, 36-3501, 41-2501, 41-3803, 41-3804 AND 41-3955.01, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO BEHAVIORAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 8-527, Arizona Revised Statutes, is amended to
3 read:

4 8-527. Children in out-of-home care; noninterference with
5 regular school activities

6 The agency, division and ~~department of health services~~ ARIZONA HEALTH
7 CARE COST CONTAINMENT SYSTEM ADMINISTRATION in accordance with section
8 36-3435, subsection B, shall make every reasonable effort to not remove a
9 child who is placed in out-of-home care from school during regular school
10 hours for appointments, visitations or activities not related to school.

11 Sec. 2. Section 11-297, Arizona Revised Statutes, is amended to read:
12 11-297. Seriously mentally ill; county responsibility;
13 definition

14 A. Notwithstanding section 11-291:

15 1. A county that has a population of less than six hundred thousand
16 persons must provide the benefit levels and categories of services for the
17 behavioral health treatment, behavioral health hospitalization and behavioral
18 health medical care of persons who are seriously mentally ill as required by
19 law as of January 1, 2001.

20 2. A county that has a population of more than six hundred thousand
21 persons but less than two million persons and that has an intergovernmental
22 agreement with the department of health services in effect as of January 1,
23 2001 for the delivery of behavioral health and mental health care services
24 must ~~annually renew the~~ MAINTAIN AN agreement WITH THIS STATE to provide for
25 the integration of the system at the same funding amount, except for the
26 funding for court-ordered screening and evaluation pursuant to title 36,
27 chapter 5, article 4.

28 3. A county that has a population of more than two million persons and
29 that has an intergovernmental agreement with the department of health
30 services in effect as of January 1, 2001 for the delivery of services to the
31 seriously mentally ill must ~~annually renew the~~ MAINTAIN AN agreement WITH
32 THIS STATE to provide for the integration of the system at the same terms and
33 funding amount and with a mutually agreed on annual adjustment for inflation.

34 B. For the purposes of this section, "seriously mentally ill" has the
35 same meaning prescribed in section 36-550.

36 Sec. 3. Section 15-765, Arizona Revised Statutes, is amended to read:
37 15-765. Special education in rehabilitation, corrective or
38 other state and county supported institutions,
39 facilities or homes

40 A. For the purposes of this section and section 15-764, children with
41 disabilities who are being provided with special education in rehabilitation,
42 corrective or other state and county supported institutions or facilities are
43 the responsibility of that institution or facility, including children with
44 disabilities who are not enrolled in a residential program and who are being
45 furnished with daily transportation. Special education programs at the

1 institution or facility shall conform to the conditions and standards
2 prescribed by the director of the division of special education.

3 B. Notwithstanding subsection A of this section, the department of
4 economic security, the department of child safety or the ~~department of health~~
5 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may request on behalf of
6 a school-age child with a disability residing in a residential facility or
7 foster home operated or supported by the department of economic security, the
8 department of child safety or the ~~department of health services~~ ARIZONA
9 HEALTH CARE COST CONTAINMENT SYSTEM that the school district in which the
10 facility or home is located enroll the school-age child in the district,
11 subject to section 15-825. The school district, on the request by the
12 department of economic security, the department of child safety or the
13 ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM,
14 shall enroll the child and provide any necessary special education and
15 related services, subject to section 15-766. A school district in which a
16 child with a disability is enrolled shall coordinate the development of an
17 individualized education program with the development of an individual
18 program or treatment plan. The provision of special education and related
19 services to a child with a disability may be subject to subsection D of this
20 section.

21 C. Before any placement is made in facilities described in this
22 section, the school district of residence shall ensure that a full continuum
23 of alternative placements is available to meet the needs of children with
24 disabilities and that the proposed placement is the least restrictive
25 environment in which appropriate education services can be provided to the
26 child.

27 D. A school district or county school superintendent may contract
28 with, and make payments to, other public or private schools, institutions and
29 agencies approved by the division of special education, within or without the
30 school district or county, for the education of and provision of services to
31 children with disabilities if section 15-766 and the conditions and standards
32 prescribed by the division of special education have been met and if unable
33 to provide satisfactory education and services through its own facilities and
34 personnel in accordance with the rules prescribed by the state board of
35 education as provided in section 15-213. No school district may contract or
36 make payments under the authority of this section or section 15-764 or any
37 other provisions of law for the residential or educational costs of placement
38 of children with disabilities in an approved private special education
39 school, institution or agency unless the children are evaluated and placed by
40 a school district. The following special provisions apply in order to
41 qualify for the group B ED-P weight:

42 1. If the child is placed in a private special education program, the
43 chief administrative official of the school district or county or other
44 person designated by the school district or county as responsible for special
45 education shall verify that the pupil is diagnosed with an emotional

1 disability as defined in section 15-761, that no appropriate program exists
2 within the school district or county, as applicable, and that no program can
3 feasibly be instituted by the school district or county, as applicable.

4 2. If the child is placed in a special program that provides intensive
5 services within a school district, the chief administrative official of the
6 school district or county or other person as designated by the school
7 district or county as responsible for special education shall verify that the
8 pupil placed in such a program is diagnosed with an emotional disability as
9 defined in section 15-761 and that appropriate services cannot be provided in
10 traditional resource and self-contained special education classes.

11 E. When a state placing agency initially places a pupil in a private
12 residential facility, the home school district must conduct an evaluation
13 pursuant to section 15-766 or review the educational placement of a pupil who
14 has previously been determined eligible for special education services. The
15 school district shall notify the appropriate state placing agency when a
16 child requires an evaluation for possible receipt of services provided by
17 that agency or a residential special education placement. The school
18 district and the state agency shall jointly evaluate the child, including
19 consideration of relevant information from additional sources, including
20 probation or parole officers, caseworkers, guardians ad litem and court
21 appointed special advocates.

22 F. If the child is not eligible for special education or does not
23 require residential special education placement, sections 15-1182 and 15-1183
24 apply.

25 G. If the individualized education program team determines that a
26 residential special education placement is the least restrictive environment
27 in which an appropriate educational program can be provided, the home school
28 district shall submit the following documentation to the department of
29 education:

30 1. A residential special education voucher application signed by
31 designated representatives of the state placing agency, as defined in section
32 15-1181, and the home school district, respectively.

33 2. The educational reasons for recommending the residential special
34 education placement, including an evaluation or addendum to the evaluation
35 that describes the instructional and behavioral interventions that were
36 previously attempted and the educational reasons for recommending the
37 residential special education placement, including documentation that the
38 nature or severity of the disability is such that education in a less
39 restrictive environment is not appropriate.

40 3. Exit criteria as required in subsection K of this section.

41 4. That prior written notice for a change in the child's placement was
42 provided.

43 H. If a residential special education placement is required by the
44 child's individualized education program, the educational component of the

1 residential facility shall be one that is approved by the department of
2 education for the specific special education services required.

3 I. The residential component of the facility in which the residential
4 special education placement is made shall be licensed by the department of
5 economic security, the department of child safety or the department of health
6 services, whichever is appropriate.

7 J. Following and in accordance with the consensus decision of the
8 individualized education program team as prescribed in section 15-766, a
9 residential special education placement shall be made by the school district
10 and the appropriate state agency. The individualized education program team
11 shall determine whether a residential special education placement is
12 necessary. The state placing agency shall consider the recommendations of
13 the individualized education program team in selecting the specific
14 residential facility. The department of education shall enter into
15 interagency services agreements with the department of economic security, the
16 department of child safety or the ~~department of health services~~ ARIZONA
17 HEALTH CARE COST CONTAINMENT SYSTEM to establish a mechanism for resolving
18 disputes if the school district and the department of economic security, the
19 department of child safety or the ~~department of health services~~ ARIZONA
20 HEALTH CARE COST CONTAINMENT SYSTEM cannot mutually agree on the specific
21 residential placement to be made. Dispute resolution procedures may not be
22 used to deny or delay residential special education placement.

23 K. The individualized education program for any child who requires
24 residential special education placement must include exit criteria that
25 indicate when the educational placement of the child shall be reviewed to
26 determine whether the child can be moved to a less restrictive placement.

27 L. All noneducational and nonmedical costs incurred by the placement
28 of a child with a disability in a private or public school program and
29 concurrent out-of-home care program shall be paid by the department of
30 economic security for those children eligible to receive services through the
31 division of developmental disabilities, by the department of child safety for
32 the children for which it has legal responsibility and by the ~~department of~~
33 ~~health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM for those
34 children eligible to receive BEHAVIORAL HEALTH OR CHILDREN'S REHABILITATION
35 services through the ~~division of behavioral health in the department of~~
36 ~~health services or children's rehabilitation services~~ ARIZONA HEALTH CARE
37 COST CONTAINMENT SYSTEM ADMINISTRATION. This section does not prevent or
38 limit the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT
39 SYSTEM, the department of child safety and the department of economic
40 security from joint case management of any child who qualifies for services
41 from two or more of these agencies or from sharing the noneducational costs
42 of providing those services. The educational costs incurred by the placement
43 of a child with a disability in an out-of-home care facility shall be paid as
44 follows:

1 1. Through a residential special education placement voucher as
2 provided in section 15-1184 if the child is determined to require a
3 residential special education placement as defined in section 15-761.

4 2. Through an initial or continuing residential education voucher if a
5 child is placed in a private residential facility by a state placing agency,
6 as defined in section 15-1181, for care, treatment and safety reasons and the
7 child needs educational services while in that placement.

8 3. Through a certificate of educational convenience if the child is
9 attending a public school not within the child's school district of residence
10 as provided in section 15-825.

11 4. By the home school district, pursuant to a contract with a public
12 or private school as provided in subsection D of this section, if the home
13 school district is unable to provide satisfactory education and services
14 through its own facilities and personnel.

15 M. The department of economic security, the department of child safety
16 or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT
17 SYSTEM, whichever is appropriate, shall determine if the child placed for
18 purposes of special education in a private or public school and concurrent
19 out-of-home care is covered by an insurance policy that provides for
20 inpatient or outpatient child or adolescent psychiatric treatment. The
21 appropriate state agency may only pay charges for treatment costs that are
22 not covered by an insurance policy. Notwithstanding any other law, the
23 appropriate state agency may pay for placement costs of the child before the
24 verification of applicable insurance coverage. On the depletion of insurance
25 benefits, the appropriate state agency shall resume payment for all
26 noneducational and nonmedical costs incurred in the treatment of the child.
27 The appropriate state agency may request the child's family to contribute a
28 voluntary amount toward the noneducational and nonmedical costs incurred as a
29 result of residential placement of the child. The amount that the
30 appropriate state agency requests the child's family to contribute shall be
31 based on guidelines in the rules of the appropriate state agency governing
32 the determination of contributions by parents and estates. This subsection
33 does not require parents to incur any costs for required special education
34 and related services or shall be construed to result in a reduction in
35 lifetime insurance benefits available for a child with a disability.

36 N. If appropriate services are offered by the school district and the
37 parent or the child chooses for the child to attend a private facility,
38 either for day care or for twenty-four-hour care, neither the school district
39 nor the respective agency is obligated to assume the cost of the private
40 facility. If residential twenty-four-hour care is necessitated by factors
41 such as the child's home condition and is not related to the special
42 educational needs of the child, the agency responsible for the care of the
43 child is not required to pay any additional costs of room and board and
44 nonmedical expenses pursuant to this section.

1 Sec. 4. Section 15-1181, Arizona Revised Statutes, is amended to read:

2 15-1181. Definitions

3 In this article, unless the context otherwise requires:

4 1. "Child" means a person who is at least three years of age by
5 September 1 of the current year but who is under twenty-two years of age.

6 2. "Foster parent" means a person who may serve as the parent of a
7 child with disabilities if that person has an ongoing, long-term parental
8 relationship with the child, is willing to make educational decisions for the
9 child and has no personal interest that would conflict with the interests of
10 the child.

11 3. "Fund" means the special education fund.

12 4. "Home school district" has the same meaning prescribed in section
13 15-761.

14 5. "Individualized education program" has the same meaning prescribed
15 in section 15-761.

16 6. "Parent" means the natural or adoptive parent of a child, the legal
17 guardian of a child, a relative with whom a child resides and who is acting
18 as the parent of that child or a surrogate parent who has been appointed for
19 a child pursuant to section 15-763.01. Parent does not mean this state if
20 the child is a ward of the state.

21 7. "Place" or "placement" means placement of a child in a private
22 residential facility for residential special education placement as defined
23 in section 15-761 or by a state placing agency for care, safety or treatment
24 reasons.

25 8. "Private residential facility" means a private facility that is
26 licensed by the department of economic security or department of health
27 services and to which one of the following also applies:

28 (a) For special education placements, the facility has been approved
29 by the division of special education pursuant to section 15-765 for the
30 purpose of providing special education and related services.

31 (b) For other than special education placements, the facility has been
32 accredited by the north central association of colleges and secondary
33 schools, except that private facilities applying for initial approval as a
34 private school are not required to receive accreditation until three years
35 after the date of initial approval as long as continual progress toward
36 accreditation is maintained.

37 9. "Related services" means related services as defined in section
38 15-761.

39 10. "Residential special education placement" has the same meaning
40 prescribed in section 15-761.

41 11. "Special education" has the same meaning prescribed in section
42 15-761.

43 12. "State placing agency" means the department of juvenile
44 corrections, the department of economic security, the department of child

1 safety, the ~~department of health services~~ ARIZONA HEALTH CARE COST
2 CONTAINMENT SYSTEM or the administrative office of the court.

3 Sec. 5. Section 36-141, Arizona Revised Statutes, is amended to read:

4 36-141. Authority to contract and pay for alcohol and drug
5 abuse services; services to pregnant women; priority

6 A. The ~~deputy~~ director of the ~~division of behavioral health with the~~
7 ~~approval of the director~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
8 ADMINISTRATION is authorized to contract for the development and maintenance
9 of alcohol and drug abuse services from monies available for such purpose
10 with public or private agencies or organizations engaged in providing such
11 preventive, rehabilitative and research services including educational,
12 counseling and research activities directed toward preventing persons from
13 becoming addicted to the excessive use of alcohol or other drugs and
14 consultative services to relatives or other persons concerned with the care
15 of persons addicted to the excessive use of alcohol or other drugs, in
16 addition to detecting, counseling, referring, caring for and training those
17 afflicted.

18 B. In allocating any new and existing undedicated monies available to
19 the ~~division of behavioral health~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
20 for alcohol and substance abuse, the ~~deputy~~ director OF THE ARIZONA HEALTH
21 CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall give priority to treatment
22 services for pregnant abusers of alcohol and other drugs.

23 Sec. 6. Section 36-189, Arizona Revised Statutes, is amended to read:

24 36-189. State participation in establishment and maintenance of
25 local health departments and local health services

26 A. The department of health services may use ~~funds~~ MONIES at its
27 disposal and not otherwise appropriated to match ~~funds~~ MONIES provided by
28 cities and counties to establish and maintain local health department
29 services for any city or county, on such reasonable terms as it establishes
30 by rule. From the appropriation made for purposes of this section, the
31 department of health services shall reimburse local health departments, which
32 meet minimum standards of personnel and performance established by the
33 director of the department of health services and, ~~upon~~ ON submission and
34 approval of a plan and budget by such local health departments, fifty ~~per~~
35 ~~cent~~ PERCENT of the portion of the total approved budget not in excess of one
36 dollar twenty-five cents per capita or a prorated portion thereof if
37 sufficient ~~funds~~ MONIES are not available to meet the approved requests. If
38 annual expenditures of the local health department are less than the amount
39 budgeted, the total state reimbursement to such department for the year shall
40 not exceed the appropriate ~~per cent~~ PERCENTAGE of the amount actually
41 expended by such local health department. The department of health services
42 ~~may~~, in addition, MAY provide federal ~~funds~~ MONIES or services for
43 demonstrations, studies and special projects, or for emergencies.

44 B. The ~~division of behavioral health in the department of health~~
45 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may use ~~funds~~ MONIES at

1 its disposal, including federal ~~funds~~ MONIES available to the state for this
2 purpose, and not otherwise appropriated to contract for the establishment and
3 maintenance of local mental health facilities and services to be provided by
4 either private or public agencies. ~~Funds~~ MONIES available for this purpose
5 shall be expended only for local mental health facilities and services. The
6 ~~division of behavioral health in the department of health services~~ ARIZONA
7 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall advance or reimburse
8 ~~funds~~ MONIES to local agencies that have submitted and obtained approval of
9 an annual plan and budget. The annual amount of state matching funds
10 provided shall not exceed seventy-five ~~per cent~~ PERCENT of the total annual
11 amount of ~~funds~~ MONIES and value of in-kind resources used by the agency to
12 establish and maintain local mental health facilities and services.

13 Sec. 7. Section 36-201, Arizona Revised Statutes, is amended to read:

14 ~~36-201.~~ Definitions

15 In this article, unless the context otherwise requires:

16 1. "Chief medical officer" means the chief medical officer of the
17 state hospital.

18 2. "Department" means the department of health services.

19 ~~3. "Deputy director" means the deputy director of the division of~~
20 ~~behavioral health in the department.~~

21 ~~4.~~ 3. "Director" means the director of the department of health
22 services.

23 ~~5. "Division" means the division of behavioral health in the~~
24 ~~department of health services.~~

25 ~~6.~~ 4. "Employee" means an officer or employee of the state hospital.

26 ~~7.~~ 5. "State hospital" means Arizona state hospital.

27 ~~8.~~ 6. "Superintendent" means the superintendent of the state
28 hospital.

29 Sec. 8. Section 36-202, Arizona Revised Statutes, is amended to read:

30 ~~36-202.~~ State hospital for the mentally disordered; official
31 name; purpose; facilities and equipment

32 A. A state hospital shall be maintained for the care and treatment of
33 persons with mental disorders, ~~and~~ persons with other personality disorders
34 or emotional conditions who will benefit from care and treatment. Admissions
35 to the state hospital shall be in accordance with law. The hospital shall be
36 called the Arizona state hospital.

37 B. Subject to legislative appropriation, the state hospital may
38 provide services to persons suffering from alcoholism and to persons
39 suffering from drug abuse.

40 C. The state hospital shall have adequate facilities and equipment for
41 enlightened and scientific treatment of nervous and mental diseases in
42 accordance with approved methods of mental therapeutics. ~~Such~~ THE facilities
43 shall include, among other things:

44 1. Facilities for medical and psychiatric treatment with special
45 attention to occupational therapy and other special therapies.

1 Sec. 10. Section 36-204, Arizona Revised Statutes, is amended to read:

2 36-204. Duties of director

3 The ~~deputy~~ director shall:

4 1. Adopt rules for inpatient services, ~~with the approval of the~~
5 ~~director, which assure~~ THAT ENSURE proper review of treatment and discharge
6 plans, arrangement for aftercare placements, transfer of medical records and
7 assistance with medications.

8 2. If deemed advisable, establish a nurses' training school in
9 connection with the state hospital, which shall be under the supervision of
10 the superintendent.

11 3. Prescribe forms of complaints, certificates of mental illness, ~~and~~
12 commitments.

13 4. Adopt rules, ~~with the approval of the director,~~ for THE commitment
14 of mentally ill persons THAT ARE not inconsistent with provisions of law.

15 5. Adopt rules, ~~with the approval of the director,~~ for THE
16 administration of the state hospital and to carry out the purposes of this
17 article.

18 Sec. 11. Section 36-205, Arizona Revised Statutes, is amended to read:

19 36-205. Superintendent of state hospital; appointment;
20 qualifications; compensation; chief medical officer

21 A. There shall be a superintendent of the state hospital who shall be
22 appointed by ~~the deputy director, with final approval of the director,~~ and ~~be~~
23 under the supervision of the ~~deputy~~ director.

24 B. The compensation to be paid to the superintendent shall be
25 determined pursuant to section 38-611.

26 C. The superintendent shall be removed only for cause.

27 D. The superintendent shall have the following qualifications:

28 1. Administrative experience in the private sector.

29 2. An educational background that prepares the superintendent for the
30 administrative responsibilities assigned to the position.

31 3. Mental health-related experience in both an institutional and
32 community setting.

33 E. The superintendent, with the approval of the ~~deputy~~ director, shall
34 appoint a chief medical officer of the state hospital who is a physician and
35 who is licensed pursuant to title 32, chapter 13 or 17. The chief medical
36 officer shall have not less than three years' experience in the treatment of
37 psychiatric disorders and shall be board-certified in psychiatry by the board
38 of psychiatry and neurology. The chief medical officer is eligible for
39 compensation pursuant to section 38-611. The chief medical officer is
40 responsible for the clinical administration of the hospital and shall report
41 directly to the superintendent.

42 Sec. 12. Section 36-206, Arizona Revised Statutes, is amended to read:

43 36-206. Duties of superintendent; clinical assessment

44 A. The ~~deputy~~ director has charge of the state hospital and the
45 superintendent shall supervise and direct its activities, subject to the

1 provisions of law and approval of the ~~deputy~~ director. The superintendent is
2 directly responsible to the ~~deputy~~ director for carrying out the purposes for
3 which the hospital is maintained. Subject to the approval of the ~~deputy~~
4 director, the superintendent may deputize any qualified officer of the state
5 hospital to do or perform any act the superintendent is empowered to do or
6 charged with the responsibility of doing by law.

7 B. The ~~deputy director~~ SUPERINTENDENT in December each year shall
8 estimate the probable daily per capita cost of treatment and maintenance of
9 each category of patients for the next ensuing year as determined in
10 accordance with standard accounting practices. A statement of the estimate
11 shall be provided to the director in January of the following year.

12 C. The superintendent, on request, shall provide to the ~~deputy~~
13 director a clinical assessment of the state hospital's programs.

14 D. On or before August 1 of each year, the ~~deputy~~ director shall
15 establish maximum funded capacity and a percentage allocation formula for
16 forensic and civil bed capacity at the Arizona state hospital based on census
17 data collected pursuant to sections 13-3994, 13-4512, 36-202.01 and
18 36-503.03. By June 1 of each year, the ~~deputy~~ director shall solicit and
19 consider the recommendations of representatives of the county board of
20 supervisors, the Arizona prosecuting attorneys' advisory council and the
21 superior court when establishing this formula. In addition to establishing
22 the formula, the ~~deputy~~ director, the county board of supervisors, the
23 Arizona prosecuting attorneys' advisory council and the superior court shall
24 develop a contingency plan for the placement of patients subject to sections
25 13-3994, 13-4512, 36-202.01 and 36-503.03 in times of emergency and other
26 unforeseen circumstances. The ~~deputy~~ director shall notify the governor, the
27 president of the senate, the speaker of the house of representatives and the
28 chairman of each county board of supervisors of the funded capacity and
29 allocation formula for the current fiscal year. Thirty days before the
30 notification of the forensic and civil bed funded capacity formula, the
31 ~~deputy~~ director shall provide this information to the representatives of the
32 county board of supervisors, the Arizona prosecuting attorneys' advisory
33 council and the superior court for comment. The ~~deputy~~ director shall
34 include these comments when issuing the formula.

35 Sec. 13. Section 36-208, Arizona Revised Statutes, is amended to read:

36 36-208. Employees; compensation

37 A. Except as otherwise provided by this article, the ~~deputy~~ director
38 shall employ all employees of the state hospital. The ~~deputy~~ director may
39 employ necessary medical consultants ~~upon~~ ON recommendation of the
40 superintendent. The ~~deputy~~ director may permit members of the medical staff
41 to act as consultants in psychiatry.

42 B. Subject to the laws of this state governing state personnel
43 administration, the superintendent may discharge an employee for cause. An
44 employee so discharged ~~may~~, ~~upon~~ ON request, ~~MAY~~ have the reasons for ~~his~~ THE
45 discharge reviewed and determined by the ~~deputy~~ director. The superintendent

1 shall file a written report with the ~~deputy~~ director of each discharge
2 setting forth the reasons ~~therefor~~ FOR THE DISCHARGE.

3 C. The compensation of employees of the state hospital shall be as
4 determined pursuant to section 38-611.

5 Sec. 14. Section 36-209, Arizona Revised Statutes, is amended to read:
6 36-209. Reports by superintendent and director

7 A. At such time as the ~~deputy~~ director designates, the superintendent
8 shall submit to the ~~deputy~~ director a report of the activities of the state
9 hospital during the preceding fiscal year, including:

10 1. The number of patients received, conditionally discharged and
11 discharged and voluntary patients treated.

12 2. Methods of treatment used and the results.

13 3. The total number, including the number of such persons who were
14 committed on a voluntary and involuntary basis, of seriously mentally ill
15 patients as defined in section 36-550 and the place to which each person was
16 discharged.

17 4. Census data for treatment programs pursuant to sections 13-3994,
18 13-4512, 36-202.01 and 36-503.03.

19 5. A complete employment and personnel record.

20 6. The condition of existing equipment.

21 7. Recommendations for improvement of the institution.

22 8. Other matters required by the ~~deputy~~ director or deemed advisable
23 by the superintendent to present a complete description of the condition and
24 activities of the hospital.

25 B. Not later than the fifteenth day of each month, the ~~deputy~~ director
26 shall prepare in duplicate a financial statement of the affairs of the state
27 hospital, including:

28 1. The amounts appropriated for the current fiscal year for operation,
29 maintenance and improvement.

30 2. The amount expended during the preceding calendar month.

31 3. The balance on hand.

32 4. The estimated expenditures for the current month.

33 5. An inventory report.

34 C. The original report and statements required by this section shall
35 be filed with and retained as records of the ~~deputy~~ director and duplicates
36 filed with the director of the department of administration.

37 D. At such time as the ~~deputy~~ director designates, the superintendent
38 shall submit to the ~~deputy~~ director a financial statement of the affairs of
39 the state hospital during the preceding fiscal year in a form prescribed by
40 the director of the department of administration.

41 E. By October 1 of each year, the ~~deputy~~ director, ~~with the approval~~
42 ~~of the director~~, shall submit to the governor a comprehensive report of the
43 activities of the state hospital during the preceding fiscal year, which
44 shall include the annual reports of the superintendent, and shall contain:

45 1. An account of the work done.

1 2. Recommendations for improvements.

2 3. Financial statements ~~which shall~~ THAT clearly reflect the origin
3 and disposition of all monies ~~which~~ THAT have come into the hands of the
4 ~~deputy~~ director or an employee through appropriations or otherwise.

5 F. The ~~deputy~~ director, ~~with the approval of the director,~~ shall make
6 such supplemental reports as the governor or the legislature requests.

7 G. The annual report **PRESCRIBED BY SUBSECTION E OF THIS SECTION** shall
8 be published for the information of the public and five copies shall be
9 delivered to the chief clerk of the house of representatives and the
10 secretary of the senate, respectively, who shall keep them on file for the
11 use of the members of each house.

12 Sec. 15. Section 36-210, Arizona Revised Statutes, is amended to read:

13 **36-210. Expenditures**

14 A. This article does not give the director or any employee authority
15 to create a debt or obligation in excess of the amount appropriated by the
16 legislature to carry out its provisions. If monies are not appropriated to
17 carry out the purpose of this article, the director shall submit
18 recommendations to the legislature, with a statement of the cost when an
19 improvement is requested.

20 B. Except as provided by subsection D of this section, the director of
21 the department of administration shall not issue a warrant for expenditures
22 by the state hospital in excess of the estimate contained in the monthly
23 financial statement unless the superintendent submits a written request that
24 is approved in writing by the ~~deputy~~ director **OF THE DEPARTMENT OF HEALTH**
25 **SERVICES** and that states the reasons for the request. The director of the
26 department of administration shall not issue warrants in excess of the amount
27 available for the current quarter.

28 C. If a patient in the state hospital requires a health care service
29 that the state hospital or a facility or provider contracted by the state
30 hospital cannot provide, the department of health services shall pay approved
31 claims from a facility or provider that provides these required services as
32 follows:

33 1. For inpatient and outpatient hospital services, the state shall
34 reimburse at a level that does not exceed the reimbursement methodology
35 established in section 36-2903.01, subsection G.

36 2. For health and medical services, the state shall reimburse
37 providers at a level that does not exceed the capped fee-for-service schedule
38 that is adopted by the Arizona health care cost containment system
39 administration pursuant to chapter 29, article 1 of this title and that is in
40 effect at the time the service is delivered.

41 D. Monies appropriated for capital investment may be expended at any
42 time during the fiscal period for which the monies are appropriated as
43 directed by the director.

1 Sec. 16. Section 36-212, Arizona Revised Statutes, is amended to read:

2 36-212. Maximum security area required

3 The superintendent, under the direction of the ~~deputy~~ director, shall
4 equip, staff and supervise the operation of an area consisting of one or more
5 separate buildings on the state hospital grounds in Phoenix to be designated
6 a maximum security area. The superintendent shall designate which patients
7 shall be confined within a maximum security area, ~~Such area~~ WHICH shall be
8 equipped, staffed and maintained in order to provide treatment and necessary
9 supervision to prevent the patients from leaving ~~such~~ THE area without
10 authorization.

11 Sec. 17. Section 36-213, Arizona Revised Statutes, is amended to read:

12 36-213. Store and canteen; deposit

13 A. The superintendent, with the approval of the ~~deputy~~ director, may
14 set aside and designate any space on the grounds of the hospital that is not
15 needed for other authorized purposes for the establishment and maintenance of
16 store and canteen facilities for the sale of candies, cigarettes, food,
17 nonalcoholic beverages, sundries and other articles to patients and employees
18 and for the benefit of patients of the state hospital.

19 B. The superintendent, with the approval of the ~~deputy~~ director, may
20 contract with an outside firm, individual or agency to lease and operate the
21 store and canteen facilities. ~~Such~~ THE outside firm, individual or agency
22 shall provide a bond in an amount set by the superintendent with the approval
23 of the ~~deputy~~ director. The facilities shall be conducted subject to the
24 rules and regulations of the ~~division~~ DEPARTMENT, and rental and service
25 charges shall be established by the superintendent, with the approval of the
26 ~~deputy~~ director, as will reimburse the hospital for the cost thereof.

27 C. Any profits derived from the operation of such facilities, after
28 reimbursement to the hospital, shall be deposited in the department of health
29 services donations fund created by authority of section 36-132, subsection B.
30 The monies may be expended as the ~~deputy~~ director directs for the benefit of
31 the patients of the state hospital. The provisions of title 35, chapter 1 do
32 not apply to the monies in the fund.

33 Sec. 18. Title 36, chapter 2, article 1, Arizona Revised Statutes, is
34 amended by adding sections 36-216 and 36-217, to read:

35 36-216. Budget for state hospital

36 A. THE DEPARTMENT SHALL PRESENT A BUDGET REQUEST THAT INCLUDES ALL
37 INFORMATION ON THE POTENTIAL AVAILABILITY OF OTHER MONIES, INCLUDING FEDERAL
38 MONIES, THAT MAY BE USED IN THE FOLLOWING FISCAL YEAR TO FUND THE STATE
39 HOSPITAL.

40 B. THE BUDGET REQUEST PRESENTED PURSUANT TO SUBSECTION A OF THIS
41 SECTION SHALL INCLUDE A PROPOSED BUDGET FOR THE STATE HOSPITAL, WITH A
42 SPECIFIC AMOUNT OF THE TOTAL BUDGET ESTIMATED TO BE USED FOR PATIENTS WHO ARE
43 SERIOUSLY MENTALLY ILL.

44 C. MONIES APPROPRIATED TO THE DEPARTMENT FOR THE STATE HOSPITAL
45 PROGRAMS, FEES GENERATED BY THE DEPARTMENT FOR THESE PROGRAMS AND GRANTS AND

1 GIFTS TO THE DEPARTMENT SHALL BE MAINTAINED IN THE APPROPRIATE FUND TO PAY
2 PROGRAM AND ADMINISTRATIVE COSTS. THE ADMINISTRATIVE COSTS OF EACH PROGRAM
3 SHALL BE SEPARATELY IDENTIFIED IN THE ACCOUNTING RECORDS OF THE DEPARTMENT.

4 ~~36-217.~~ State hospital annual report

5 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT TO THE
6 GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF
7 THE SENATE A FINANCIAL AND PROGRAMMATIC REPORT ON THE STATE HOSPITAL FOR THE
8 PRECEDING FISCAL YEAR. THIS REPORT SHALL INCLUDE ALL REVENUES AND
9 EXPENDITURES OF THE STATE HOSPITAL, INCLUDING SPECIFIC IDENTIFICATION OF
10 ADMINISTRATIVE COSTS FOR AND THE NUMBER OF PERSONS SERVED AT THE STATE
11 HOSPITAL.

12 Sec. 19. Section 36-501, Arizona Revised Statutes, is amended to read:

13 ~~36-501.~~ Definitions

14 In this chapter, unless the context otherwise requires:

15 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
16 SYSTEM ADMINISTRATION.

17 ~~1-~~ 2. "Admitting officer" means a psychiatrist or other physician or
18 psychiatric and mental health nurse practitioner with experience in
19 performing psychiatric examinations who has been designated as an admitting
20 officer of the evaluation agency by the person in charge of the evaluation
21 agency.

22 ~~2-~~ 3. "Chief medical officer" means the chief medical officer under
23 the supervision of the superintendent of the state hospital.

24 ~~3-~~ 4. "Contraindicated" means that access is reasonably likely to
25 endanger the life or physical safety of the patient or another person.

26 ~~4-~~ 5. "Court" means the superior court in the county in this state in
27 which the patient resides or was found before screening or emergency
28 admission under this title.

29 ~~5-~~ 6. "Danger to others" means that the judgment of a person who has
30 a mental disorder is so impaired that the person is unable to understand the
31 person's need for treatment and as a result of the person's mental disorder
32 the person's continued behavior can reasonably be expected, on the basis of
33 competent medical opinion, to result in serious physical harm.

34 ~~6-~~ 7. "Danger to self":

35 (a) Means behavior that, as a result of a mental disorder:

36 (i) Constitutes a danger of inflicting serious physical harm on
37 oneself, including attempted suicide or the serious threat thereof, if the
38 threat is such that, when considered in the light of its context and in light
39 of the individual's previous acts, it is substantially supportive of an
40 expectation that the threat will be carried out.

41 (ii) Without hospitalization will result in serious physical harm or
42 serious illness to the person.

43 (b) Does not include behavior that establishes only the condition of
44 ~~persons with~~ HAVING A grave disabilities DISABILITY.

45 ~~7-~~ 8. "Department" means the department of health services.

1 ~~8. "Deputy director" means the deputy director of the division of~~
2 ~~behavioral health in the department of health services.~~

3 9. "Detention" means the taking into custody of a patient or proposed
4 patient.

5 10. "Director" means the director of the ~~department~~ ADMINISTRATION.

6 ~~11. "Division" means the division of behavioral health in the~~
7 ~~department.~~

8 ~~12-~~ 11. "Evaluation" means:

9 (a) A professional multidisciplinary analysis that may include
10 firsthand observations or remote observations by interactive audiovisual
11 media and that is based on data describing the person's identity, biography
12 and medical, psychological and social conditions carried out by a group of
13 persons consisting of not less than the following:

14 (i) Two licensed physicians, who shall be qualified psychiatrists, if
15 possible, or at least experienced in psychiatric matters, and who shall
16 examine and report their findings independently. The person against whom a
17 petition has been filed shall be notified that the person may select one of
18 the physicians. A psychiatric resident in a training program approved by the
19 American medical association or by the American osteopathic association may
20 examine the person in place of one of the psychiatrists if the resident is
21 supervised in the examination and preparation of the affidavit and testimony
22 in court by a qualified psychiatrist appointed to assist in the resident's
23 training, and if the supervising psychiatrist is available for discussion
24 with the attorneys for all parties and for court appearance and testimony if
25 requested by the court or any of the attorneys.

26 (ii) Two other individuals, one of whom, if available, shall be a
27 psychologist and in any event a social worker familiar with mental health and
28 human services that may be available placement alternatives appropriate for
29 treatment. An evaluation may be conducted on an inpatient basis, an
30 outpatient basis or a combination of both, and every reasonable attempt shall
31 be made to conduct the evaluation in any language preferred by the person.

32 (b) A physical examination that is consistent with the existing
33 standards of care and that is performed by one of the evaluating physicians
34 or by or under the supervision of a physician who is licensed pursuant to
35 title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed
36 pursuant to title 32, chapter 15 if the results of that examination are
37 reviewed or augmented by one of the evaluating physicians.

38 ~~13-~~ 12. "Evaluation agency" means a health care agency that is
39 licensed by the department and that has been approved pursuant to this title,
40 providing those services required of such agency by this chapter.

41 ~~14-~~ 13. "Family member" means a spouse, parent, adult child, adult
42 sibling or other blood relative of a person undergoing treatment or
43 evaluation pursuant to this chapter.

44 14. "GRAVE DISABILITY" MEANS A CONDITION EVIDENCED BY BEHAVIOR IN
45 WHICH A PERSON, AS A RESULT OF A MENTAL DISORDER, IS LIKELY TO COME TO

1 SERIOUS PHYSICAL HARM OR SERIOUS ILLNESS BECAUSE THE PERSON IS UNABLE TO
2 PROVIDE FOR THE PERSON'S OWN BASIC PHYSICAL NEEDS.

3 15. "Health care decision maker" has the same meaning prescribed in
4 section 12-2801.

5 16. "Health care entity" means a health care provider, the department,
6 the ~~Arizona health care cost containment system~~ administration or a regional
7 behavioral health authority under contract with the ~~department~~
8 ADMINISTRATION.

9 17. "Health care provider" means a health care institution as defined
10 in section 36-401 that is licensed as a behavioral health provider pursuant
11 to department rules or a mental health provider.

12 18. "Independent evaluator" means a licensed physician, psychiatric
13 and mental health nurse practitioner or psychologist selected by the person
14 to be evaluated or by such person's attorney.

15 19. "Informed consent" means a voluntary decision following
16 presentation of all facts necessary to form the basis of an intelligent
17 consent by the patient or guardian with no minimizing of known dangers of any
18 procedures.

19 20. "Least restrictive treatment alternative" means the treatment plan
20 and setting that infringe in the least possible degree with the patient's
21 right to liberty and that are consistent with providing needed treatment in a
22 safe and humane manner.

23 21. "Licensed physician" means any medical doctor or doctor of
24 osteopathy who is either:

25 (a) Licensed in this state.

26 (b) A full-time hospital physician licensed in another state and
27 serving on the staff of a hospital operated or licensed by the United States
28 government.

29 22. "Medical director of an evaluation agency" means a psychiatrist,
30 or other licensed physician experienced in psychiatric matters, who is
31 designated in writing by the governing body of the agency as the person in
32 charge of the medical services of the agency for the purposes of this chapter
33 and may include the chief medical officer of the state hospital.

34 23. "Medical director of a mental health treatment agency" means a
35 psychiatrist, or other licensed physician experienced in psychiatric matters,
36 who is designated in writing by the governing body of the agency as the
37 person in charge of the medical services of the agency for the purposes of
38 this chapter and includes the chief medical officer of the state hospital.

39 24. "Mental disorder" means a substantial disorder of the person's
40 emotional processes, thought, cognition or memory. Mental disorder is
41 distinguished from:

42 (a) Conditions that are primarily those of drug abuse, alcoholism or
43 intellectual disability, unless, in addition to one or more of these
44 conditions, the person has a mental disorder.

1 (b) The declining mental abilities that directly accompany impending
2 death.

3 (c) Character and personality disorders characterized by lifelong and
4 deeply ingrained antisocial behavior patterns, including sexual behaviors
5 that are abnormal and prohibited by statute unless the behavior results from
6 a mental disorder.

7 25. "Mental health provider" means any physician or provider of mental
8 health or behavioral health services involved in evaluating, caring for,
9 treating or rehabilitating a patient.

10 26. "Mental health treatment agency" means the state hospital or a
11 health care agency that is licensed by the department and that provides those
12 services that are required of the agency by this chapter.

13 27. "Outpatient treatment" or "combined inpatient and outpatient
14 treatment" means any treatment program not requiring continuous inpatient
15 hospitalization.

16 28. "Outpatient treatment plan" means a treatment plan that does not
17 require continuous inpatient hospitalization.

18 29. "Patient" means any person undergoing examination, evaluation or
19 behavioral or mental health treatment under this chapter.

20 30. "Peace officers" means sheriffs of counties, constables, marshals
21 and policemen of cities and towns.

22 31. "Persistent or acute disability" means a severe mental disorder
23 that meets all the following criteria:

24 (a) If not treated has a substantial probability of causing the person
25 to suffer or continue to suffer severe and abnormal mental, emotional or
26 physical harm that significantly impairs judgment, reason, behavior or
27 capacity to recognize reality.

28 (b) Substantially impairs the person's capacity to make an informed
29 decision regarding treatment, and this impairment causes the person to be
30 incapable of understanding and expressing an understanding of the advantages
31 and disadvantages of accepting treatment and understanding and expressing an
32 understanding of the alternatives to the particular treatment offered after
33 the advantages, disadvantages and alternatives are explained to that person.

34 (c) Has a reasonable prospect of being treatable by outpatient,
35 inpatient or combined inpatient and outpatient treatment.

36 ~~32. "Persons with grave disabilities" means a condition evidenced by~~
37 ~~behavior in which a person, as a result of a mental disorder, is likely to~~
38 ~~come to serious physical harm or serious illness because the person is unable~~
39 ~~to provide for the person's own basic physical needs.~~

40 ~~33.~~ 32. "Prepetition screening" means the review of each application
41 requesting court-ordered evaluation, including an investigation of facts
42 alleged in such application, an interview with each applicant and an
43 interview, if possible, with the proposed patient. The purpose of the
44 interview with the proposed patient is to assess the problem, explain the

1 application and, when indicated, attempt to persuade the proposed patient to
2 receive, on a voluntary basis, evaluation or other services.

3 ~~34.~~ 33. "Prescribed form" means a form established by a court or the
4 rules of the ~~division that have been approved by the director or~~
5 ADMINISTRATION in accordance with the laws of this state.

6 ~~35.~~ 34. "Professional" means a physician who is licensed pursuant to
7 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title
8 32, chapter 19.1 or a psychiatric and mental health nurse practitioner who is
9 certified pursuant to title 32, chapter 15.

10 ~~36.~~ 35. "Proposed patient" means a person for whom an application for
11 evaluation has been made or a petition for court-ordered evaluation has been
12 filed.

13 ~~37.~~ 36. "Psychiatric and mental health nurse practitioner" means a
14 registered nurse practitioner as defined in section 32-1601 who has completed
15 an adult or family psychiatric and mental health nurse practitioner program
16 and who is certified as an adult or family psychiatric and mental health
17 nurse practitioner by the state board of nursing.

18 ~~38.~~ 37. "Psychiatrist" means a licensed physician who has completed
19 three years of graduate training in psychiatry in a program approved by the
20 American medical association or the American osteopathic association.

21 ~~39.~~ 38. "Psychologist" means a person who is licensed under title 32,
22 chapter 19.1 and who is experienced in the practice of clinical psychology.

23 ~~40.~~ 39. "Records" means all communications that are recorded in any
24 form or medium and that relate to patient examination, evaluation or
25 behavioral or mental health treatment. Records include medical records that
26 are prepared by a health care provider or other providers. Records do not
27 include:

28 (a) Materials that are prepared in connection with utilization review,
29 peer review or quality assurance activities, including records that a health
30 care provider prepares pursuant to section 36-441, 36-445, 36-2402 or
31 36-2917.

32 (b) Recorded telephone and radio calls to and from a publicly operated
33 emergency dispatch office relating to requests for emergency services or
34 reports of suspected criminal activity.

35 40. "REGIONAL BEHAVIORAL HEALTH AUTHORITY" HAS THE SAME MEANING
36 PRESCRIBED IN SECTION 36-3401.

37 41. "Screening agency" means a health care agency that is licensed by
38 the department and that provides those services required of such agency by
39 this chapter.

40 42. "Social worker" means a person who has completed two years of
41 graduate training in social work in a program approved by the council of
42 social work education and who has experience in mental health.

43 43. "State hospital" means the Arizona state hospital.

44 44. "Superintendent" means the superintendent of the state hospital.

1 Sec. 20. Section 36-502, Arizona Revised Statutes, is amended to read:

2 36-502. Powers and duties of the director of AHCCCS: rules:
3 expenditure limitation

4 A. The ~~deputy~~ director, ~~with the approval of the director,~~ shall make
5 rules ~~including~~ THAT INCLUDE standards for agencies OTHER THAN THE STATE
6 HOSPITAL WHEN providing services, ~~and prescribing~~ SHALL PRESCRIBE forms as
7 may be necessary, ~~for the proper administration and enforcement of this~~
8 chapter. The rules shall be applicable to patients admitted to or treated in
9 agencies, OTHER THAN THE STATE HOSPITAL, as set forth in this chapter and
10 shall provide for periodic inspections of such agencies.

11 B. The ~~deputy~~ director, ~~with the approval of the director,~~ shall make
12 rules concerning THE admission of patients and the transfer of patients
13 between mental health treatment agencies OTHER THAN THE STATE HOSPITAL. A
14 patient undergoing court-ordered treatment may be transferred from one mental
15 health treatment agency to another in accordance with the rules of the ~~deputy~~
16 director, subject to the approval of the court.

17 C. The ~~deputy~~ director, ~~with the approval of the director,~~ may make
18 rules concerning leaves, visits and absences of patients from evaluation
19 agencies and mental health treatment agencies OTHER THAN THE STATE HOSPITAL.

20 D. The total amount of state monies that may be spent in any fiscal
21 year by the ~~department~~ ADMINISTRATION for mental health services pursuant to
22 this chapter ~~shall~~ MAY not exceed the amount appropriated or authorized by
23 section 35-173 for that purpose. This chapter ~~shall~~ DOES not ~~be construed to~~
24 impose a duty on an officer, agent or employee of this state to discharge a
25 responsibility or ~~to~~ create any right in a person or group if the discharge
26 or right would require an expenditure of state monies in excess of the
27 expenditure authorized by legislative appropriation for that specific
28 purpose.

29 Sec. 21. Title 36, chapter 5, article 1, Arizona Revised Statutes, is
30 amended by adding section 36-502.01, to read:

31 36-502.01. Powers and duties of director of the department of
32 health services: rules: expenditure limitation

33 A. THE DIRECTOR OF THE DEPARTMENT SHALL MAKE RULES THAT INCLUDE
34 STANDARDS FOR THE STATE HOSPITAL WHEN PROVIDING SERVICES AS AN EVALUATION
35 AGENCY OR MENTAL HEALTH AGENCY AND SHALL PRESCRIBE FORMS AS MAY BE NECESSARY
36 FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THOSE RESPONSIBILITIES. THE
37 RULES SHALL BE APPLICABLE TO PATIENTS ADMITTED TO, EVALUATED BY OR TREATED IN
38 THE STATE HOSPITAL AS SET FORTH IN THIS CHAPTER AND SHALL PROVIDE FOR
39 PERIODIC INSPECTIONS OF THE STATE HOSPITAL.

40 B. THE DIRECTOR OF THE DEPARTMENT SHALL MAKE RULES CONCERNING THE
41 ADMISSION OF PATIENTS TO THE STATE HOSPITAL AND THE TRANSFER OF PATIENTS
42 BETWEEN THE STATE HOSPITAL AND OTHER MENTAL HEALTH TREATMENT AGENCIES. A
43 PATIENT UNDERGOING COURT-ORDERED TREATMENT MAY BE TRANSFERRED BETWEEN THE
44 STATE HOSPITAL AND ANOTHER MENTAL HEALTH TREATMENT AGENCY IN ACCORDANCE WITH
45 THE RULES OF THE DIRECTOR OF THE DEPARTMENT, SUBJECT TO THE APPROVAL OF THE

1 COURT. THE DIRECTOR OF THE DEPARTMENT SHALL CONSULT WITH THE DIRECTOR OF THE
2 ADMINISTRATION ON RULES RELATING TO TRANSFERS TO AND FROM THE STATE HOSPITAL
3 AND OTHER MENTAL HEALTH TREATMENT AGENCIES.

4 C. THE DIRECTOR OF THE DEPARTMENT MAY MAKE RULES CONCERNING LEAVES,
5 VISITS AND ABSENCES OF PATIENTS FROM THE STATE HOSPITAL.

6 D. THE TOTAL AMOUNT OF STATE MONIES THAT MAY BE SPENT IN ANY FISCAL
7 YEAR BY THE DEPARTMENT FOR MENTAL HEALTH SERVICES PURSUANT TO THIS CHAPTER
8 MAY NOT EXCEED THE AMOUNT APPROPRIATED OR AUTHORIZED BY SECTION 35-173 FOR
9 THAT PURPOSE. THIS CHAPTER DOES NOT IMPOSE A DUTY ON AN OFFICER, AGENT OR
10 EMPLOYEE OF THIS STATE TO DISCHARGE A RESPONSIBILITY OR CREATE ANY RIGHT IN A
11 PERSON OR GROUP IF THE DISCHARGE OR RIGHT WOULD REQUIRE AN EXPENDITURE OF
12 STATE MONIES IN EXCESS OF THE EXPENDITURE AUTHORIZED BY LEGISLATIVE
13 APPROPRIATION FOR THAT SPECIFIC PURPOSE.

14 Sec. 22. Repeal; transfer of monies

15 A. Section 36-503.02, Arizona Revised Statutes, is repealed.

16 B. All unexpended and unencumbered monies remaining in the serious
17 mental illness services fund established by section 36-503.02, Arizona
18 Revised Statutes, as repealed by subsection A of this section, are
19 transferred to the state general fund on the effective date of this section.

20 Sec. 23. Section 36-504, Arizona Revised Statutes, is amended to read:

21 36-504. Notice of patients' rights; notification to family

22 A. Every person undergoing treatment or evaluation pursuant to this
23 chapter is entitled to the rights set forth in this chapter and to rights
24 that the ~~deputy~~ director, ~~with the approval of the director~~, specifies by
25 rule. A list of patients' rights as required by this chapter and by the
26 ~~division~~ ADMINISTRATION shall be compiled and published by the ~~deputy~~
27 director, ~~with the approval of the director~~, by rule. The list shall be
28 prominently posted in English and Spanish in all facilities providing
29 evaluation or treatment. A patient's rights shall otherwise be brought to
30 the attention of the patient as this chapter requires or the ~~deputy~~
31 director, ~~with the approval of the director~~, may direct by rule.

32 B. An agency ~~which~~ THAT is evaluating, examining or treating a person
33 pursuant to article 4 or 5 of this chapter shall immediately notify the
34 person's guardian or, if none, a member of the person's family that the
35 person is being treated in the agency. If the person has an agent appointed
36 pursuant to chapter 32 of this title, the agency shall notify that agent. If
37 the agency is unable to learn the identity of OR TO CONTACT the guardian or
38 ~~a~~ member of the person's family ~~or is unable to contact them~~, it shall
39 document every attempt that was made to comply with ~~such~~ THE notification.
40 The agency shall release any further information only after the treating
41 professional or that person's designee interviews the person undergoing
42 treatment or evaluation to determine whether or not release is in that
43 person's best interests. A decision to release or withhold information is
44 subject to review pursuant to section 36-517.01. The treating agency shall
45 record the name of a person to whom any information is given.

1 authority to do this by the mental health care power of attorney. If an
2 agent gives informed consent ~~as defined in section 36-501~~, an evaluation
3 shall be conducted pursuant to section 36-3284.

4 B. Notwithstanding subsection C of this section, and except in the
5 case of an emergency admission, a minor who is in the custody of the juvenile
6 court, who is a ward of the juvenile court as a dependent child or who is
7 adjudicated delinquent or incorrigible shall not be admitted for evaluation
8 or treatment unless approved by the court on application filed by an entity
9 as provided in section 8-272 or 8-273.

10 C. A minor may be admitted to a mental health agency as defined in
11 section 8-201 by the written application of the parent, guardian or custodian
12 of the minor, or a person designated by the court if the parent, guardian or
13 custodian is without monetary resources to file an application or could not
14 be located after reasonable efforts and the minor is under the supervision of
15 an adult probation department after the following has occurred:

16 1. A psychiatric investigation by the medical director of the mental
17 health agency that carefully probes the child's social, psychological and
18 developmental background.

19 2. An interview with the child by the medical director of the mental
20 health agency.

21 3. The medical director has explained to the child and the child's
22 parent, guardian or custodian or to the person designated by the court
23 pursuant to this subsection the program of evaluation or treatment
24 contemplated and its probable length.

25 4. The medical director has explored and considered available
26 alternatives to inpatient treatment or evaluation.

27 5. The medical director of a mental health agency has determined
28 whether the child needs an inpatient evaluation or will benefit from care and
29 treatment of a mental disorder or other personality disorder or emotional
30 condition in the agency and whether the evaluation or treatment goals can be
31 accomplished in a less restrictive setting. A record of the reasons for this
32 determination shall be made.

33 D. If the child's situation does not satisfy the requirements of
34 subsection C of this section, the application by the parent, guardian or
35 custodian shall be refused.

36 E. All emergency admissions for mental health evaluation or treatment
37 of children shall be made pursuant to the standards and procedures in article
38 4 of this chapter.

39 F. If a parent, guardian or custodian is unavailable after a
40 reasonable effort has been made to locate the parent, guardian or custodian,
41 the court shall appoint a guardian for the child pursuant to title 14,
42 chapter 5.

43 G. The board of supervisors of the county of residence of a person who
44 has submitted an application for admission to the state hospital pursuant to
45 subsection A of this section shall provide transportation to the state

1 hospital for the person if it appears that the person is eligible for
2 voluntary admission to the state hospital after consultation between the
3 state hospital and the evaluation or screening agency. The county is
4 responsible for that expense to the extent the expense is not covered by any
5 third-party payor.

6 Sec. 26. Section 36-520, Arizona Revised Statutes, is amended to read:

7 36-520. Application for evaluation; definition

8 A. Any responsible individual may apply for a court-ordered evaluation
9 of a person who is alleged to be, as a result of a mental disorder, a danger
10 to self or to others, ~~OR~~ a person with a persistent or acute disability or a
11 grave disability and who is unwilling or unable to undergo a voluntary
12 evaluation. The application shall be made in the prescribed form and manner
13 as adopted by the ~~deputy~~ director.

14 B. The application for evaluation shall include the following data:

15 1. The name, and address if known, of the proposed patient for whom
16 evaluation is applied.

17 2. The age, date of birth, sex, race, marital status, occupation,
18 social security number, present location, dates and places of previous
19 hospitalizations, names and addresses of the guardian, spouse, next of kin
20 and significant other persons and other data that the ~~deputy~~ director may
21 require on the form to whatever extent that this data is known and is
22 applicable to the proposed patient.

23 3. The name, address and relationship of the person who is applying
24 for the evaluation.

25 4. A statement that the proposed patient is believed to be, as a
26 result of a mental disorder, a danger to self or to others, ~~OR~~ a patient
27 with a persistent or acute disability or a grave disability and the facts on
28 which this statement is based.

29 5. A statement that the applicant believes the proposed patient is in
30 need of supervision, care and treatment and the facts on which this statement
31 is based.

32 C. The application shall be signed and notarized.

33 D. The screening agency shall offer assistance to the applicant in
34 preparation of the application. ~~Upon~~ ON receipt of the application, the
35 screening agency shall act as prescribed in section 36-521 within forty-eight
36 hours of the filing of the application excluding weekends and holidays. If
37 the application is not acted upon within forty-eight hours, the reasons for
38 not acting promptly shall be reviewed by the director of the screening agency
39 or the director's designee.

40 E. If the applicant for the court-ordered evaluation presents the
41 person to be evaluated at the screening agency, the agency shall conduct a
42 prepetition screening examination. Except in the case of an emergency
43 evaluation, the person to be evaluated shall not be detained or forced to
44 undergo prepetition screening against the person's will.

1 F. If the applicant for the court-ordered evaluation does not present
2 the person to be evaluated at the screening agency, the agency shall conduct
3 the prepetition screening at the home of the person to be evaluated or any
4 other place the person to be evaluated is found. If prepetition screening is
5 not possible, the screening agency shall proceed as in section 36-521,
6 subsection B.

7 G. If a person is being treated by prayer or spiritual means alone in
8 accordance with the tenets and practices of a recognized church or religious
9 denomination by a duly accredited practitioner of that church or
10 denomination, such person may not be ordered evaluated, detained or
11 involuntarily treated unless the court has determined that the person is, as
12 a result of mental disorder, a danger to others or to self.

13 H. Court-ordered evaluation or treatment pursuant to this chapter
14 ~~shall~~ DOES not operate to change the legal residence of a patient.

15 I. If the application is not acted ~~upon~~ ON because it has been
16 determined that the proposed patient does not need an evaluation, the agency
17 after a period of six months shall destroy the application and any other
18 evidence of the application.

19 J. For the purposes of this section, "person" includes a person who:

20 1. Is under eighteen years of age.

21 2. Has been transferred to the criminal division of the superior court
22 pursuant to section 8-327 or who has been charged with an offense pursuant to
23 section 13-501.

24 3. Is under the supervision of an adult probation department.

25 Sec. 27. Section 36-521, Arizona Revised Statutes, is amended to read:

26 36-521. Preparation of petition for court-ordered evaluation:
27 procedures for prepetition screening

28 A. ~~Upon~~ ON receiving the application for evaluation, the screening
29 agency, ~~shall, prior to~~ BEFORE filing a petition for court-ordered
30 evaluation, SHALL provide prepetition screening within forty-eight hours
31 excluding weekends and holidays when possible to determine whether there is
32 reasonable cause to believe the allegations of the applicant for the
33 court-ordered evaluation, whether the person will voluntarily receive
34 evaluation at a scheduled time and place and whether ~~he~~ THE PERSON has a
35 persistent or acute disability, ~~OR~~ a grave disability or IS likely to
36 present a danger to self or others until the voluntary evaluation.

37 B. After prepetition screening has been completed, the screening
38 agency shall prepare a report of opinions and conclusions. If prepetition
39 screening is not possible, the screening agency shall prepare a report giving
40 reasons why the screening was not possible and including opinions and
41 conclusions of staff members who attempted to conduct prepetition screening
42 or otherwise investigated the matter.

43 C. If the prepetition screening report indicates that there exists no
44 reasonable cause to believe the allegations of the applicant for the

1 court-ordered evaluation, it shall be reviewed by the medical director of the
2 screening agency or ~~his~~ THE MEDICAL DIRECTOR'S designee.

3 D. If, based ~~upon~~ ON the allegations of the applicant for the
4 court-ordered evaluation and the prepetition screening report or other
5 information obtained while attempting to conduct a prepetition screening, the
6 agency determines that there is reasonable cause to believe that the proposed
7 patient is, as a result of mental disorder, a danger to self or to others,
8 OR has a persistent or acute disability or a grave disability and that the
9 proposed patient is unable or unwilling to voluntarily receive evaluation or
10 is likely to present a danger to self or to others, has a grave disability or
11 will further deteriorate before receiving a voluntary evaluation, ~~it~~ THE
12 AGENCY shall prepare a petition for court-ordered evaluation and shall file
13 the petition, which shall be signed by the person who prepared the petition
14 unless the county attorney performs these functions. If the agency
15 determines that there is reasonable cause to believe that the person is in
16 such a condition that without immediate hospitalization he is likely to harm
17 himself or others, ~~it~~ THE AGENCY shall take all reasonable steps to procure
18 such hospitalization on an emergency basis.

19 E. The agency may contact the county attorney in order to obtain ~~his~~
20 assistance in preparing the petition for court-ordered evaluation, and the
21 agency may request the advice and judgment of the county attorney in reaching
22 a decision as to whether the court-ordered evaluation is justified.

23 F. The county attorney may prepare or sign or file the petition if a
24 court has ordered the county attorney to prepare the petition.

25 G. If a petition for court-ordered evaluation alleges danger to others
26 as described in section 36-501, the screening agency, ~~shall, prior to~~ BEFORE
27 filing such A petition, SHALL contact the county attorney for a review of the
28 petition. The county attorney shall examine the petition and make one of the
29 following written recommendations:

- 30 1. That a criminal investigation is warranted.
- 31 2. That the screening agency shall file the petition.
- 32 3. That no further proceedings are warranted. The screening agency

33 shall consider ~~such~~ THE recommendation in determining whether a court-ordered
34 evaluation is justified and shall include ~~such~~ THE recommendation with the
35 petition if ~~it~~ THE AGENCY decides to file the petition with the court.

36 H. The petition shall be made in the form and manner prescribed by the
37 ~~deputy~~ director.

38 Sec. 28. Section 36-522, Arizona Revised Statutes, is amended to read:
39 36-522. Voluntary evaluation

40 A. If the petition for court-ordered evaluation is not filed because
41 it has been determined that the proposed patient will voluntarily receive an
42 evaluation and is unlikely to present a danger to self or others until the
43 voluntary evaluation, the evaluation agency provided for by the county, or
44 selected by the proposed patient, shall be immediately notified and shall
45 provide evaluation of the proposed patient at a scheduled time and place

1 within five days of the notice. The voluntary evaluation may be on an
2 inpatient or outpatient basis.

3 B. Voluntary inpatient evaluation is subject to ~~the provisions of~~
4 article 3 of this chapter.

5 C. Voluntary outpatient evaluation shall conform to the requirements
6 of section 36-530, subsection D and section 36-531, subsections B, C and D
7 and shall proceed only after the person to be evaluated has given consent to
8 be evaluated by signing a form prescribed by the ~~deputy~~ director ~~which~~ THAT
9 includes information to the proposed patient that the patient-physician
10 privilege does not apply and that the evaluation may result in a petition for
11 the person to undergo court-ordered treatment or for guardianship. Voluntary
12 evaluation may be carried out only if chosen by the patient during the course
13 of a prepetition screening after AN application for evaluation has been made.

14 Sec. 29. Section 36-523, Arizona Revised Statutes, is amended to read:
15 36-523. Petition for evaluation

16 A. The petition for evaluation shall contain the following:

17 1. The name, address and interest in the case of the individual who
18 applied for the petition.

19 2. The name, and address if known, of the proposed patient for whom
20 evaluation is petitioned.

21 3. The present whereabouts of the proposed patient, if known.

22 4. A statement alleging that there is reasonable cause to believe that
23 the proposed patient has a mental disorder and is as a result a danger to
24 self or others, has a persistent or acute disability or a grave disability
25 and is unwilling or unable to undergo voluntary evaluation.

26 5. A summary of the facts ~~which~~ THAT support the allegations that the
27 proposed patient is dangerous, has a persistent or acute disability or a
28 grave disability and is unwilling or unable to be voluntarily evaluated,
29 including the facts ~~which~~ THAT brought the proposed patient to the screening
30 agency's attention.

31 6. Other information that the ~~deputy~~ director, ~~with the approval of~~
32 ~~the director~~, by rule or the court by rule or order may require.

33 B. The petition shall request that the court issue an order requiring
34 that the proposed patient be given an evaluation and shall advise the court
35 of both of the following:

36 1. That the opinion of the petitioner is either that the proposed
37 patient is or is not in such a condition that without immediate or continuing
38 hospitalization ~~he~~ THE PATIENT is likely to suffer serious physical harm or
39 further deterioration or inflict serious physical harm ~~upon~~ ON another
40 person.

41 2. If the opinion of the petitioner is that the proposed patient is
42 not in the condition described in paragraph 1 of this subsection, that the
43 opinion of the petitioner is either that the evaluation should or should not
44 take place on an outpatient basis.

1 C. The petition for evaluation shall be accompanied by the application
2 for evaluation, by the recommendation of the county attorney pursuant to
3 section 36-521 and by a prepetition screening report, unless ~~such~~ THE
4 documents have not been prepared under a provision of law or in accordance
5 with an order of the court. The petition for evaluation shall also be
6 accompanied by a copy of the application for emergency admission if one
7 exists.

8 D. A petition and other forms required in a court may be filed only by
9 the screening agency ~~which~~ THAT has prepared the petition.

10 E. If the petition is not filed because it has been determined that
11 the person does not need an evaluation, the agency after a period of six
12 months shall destroy the petition and the various reports annexed to the
13 petition as required by this section.

14 Sec. 30. Section 36-531, Arizona Revised Statutes, is amended to read:
15 36-531. Evaluation; possible dispositions; release

16 A. A person WHO IS being evaluated on an inpatient basis in an
17 evaluation agency shall be released if, in the opinion of the medical
18 director of the agency, further evaluation is not appropriate unless the
19 person ~~makes application~~ APPLIES for further care and treatment on a
20 voluntary basis.

21 B. If it is determined ~~upon~~ ON an evaluation of the patient's
22 condition that ~~he~~ THE PATIENT is, as a result of a mental disorder, a danger
23 to self or to others, ~~OR~~ has a persistent or acute disability or a grave
24 disability, the medical director in charge of the agency ~~which~~ THAT provided
25 the evaluation ~~shall~~, unless the person ~~makes application~~ APPLIES for further
26 care and treatment on a voluntary basis, SHALL prepare, sign and file a
27 petition for court-ordered treatment unless the county attorney performs the
28 functions of preparing, signing or filing the petition as provided in
29 subsection C of this section.

30 C. The agency may contact the county attorney to obtain ~~his~~ assistance
31 in preparing the petition for court-ordered treatment, and the agency may
32 request the advice and judgment of the county attorney in reaching a decision
33 as to whether court-ordered treatment is justified.

34 D. A person being evaluated on an inpatient basis in an evaluation
35 agency shall be released within seventy-two hours, excluding weekends and
36 holidays, from the time that ~~he~~ THE PERSON is hospitalized pursuant to a
37 court order for evaluation, unless the person ~~makes application~~ APPLIES for
38 further care and treatment on a voluntary basis or unless a petition for
39 court-ordered treatment has been filed pursuant to subsection B of this
40 section.

41 E. The ~~department of health services~~ ADMINISTRATION may conduct
42 jointly with a school district, directly or indirectly, an educational
43 evaluation pursuant to sections 15-765 and 15-766 for nonadjudicated
44 youth. The evaluation information may be shared by and among authorized
45 personnel employed by the ~~department of health services~~ ADMINISTRATION and

1 the department of education, or authorized personnel from the local education
2 agency, for purposes of ensuring the provision of special education and
3 related services as required by the individuals with disabilities education
4 act (20 United States Code sections 1400 through 1415).

5 Sec. 31. Section 36-535, Arizona Revised Statutes, is amended to read:

6 36-535. Detention of proposed patient; time of hearing;
7 released patient; intervention by department

8 A. If, on the filing of a petition for court-ordered treatment, the
9 patient is not then detained in an agency, the court shall order the
10 detention of the patient in the agency that conducted the evaluation if the
11 court determines that the patient is likely to present a danger to self or
12 others before the conclusion of the hearing or is not likely to appear at the
13 hearing on the petition if not detained. The court shall issue such orders
14 as are necessary to provide for the apprehension, transportation and
15 detention of the proposed patient. The court shall appoint counsel for the
16 proposed patient if one has not been previously appointed.

17 B. The court shall order the hearing to be held within six business
18 days after the petition is filed, except that, on good cause shown, the court
19 may continue the hearing at the request of either party. The hearing may be
20 continued for a maximum of thirty days at the request of the proposed
21 patient. The hearing may be continued for a maximum of three business days
22 at the request of the petitioner. If the hearing is continued at the request
23 of the petitioner and the proposed patient is involuntarily hospitalized, the
24 proposed patient may request a hearing to determine whether the proposed
25 patient should be involuntarily hospitalized during the continuation period.

26 C. If after reviewing the petition with its attached material and
27 other evidence at hand the court finds that the patient is not, as a result
28 of mental disorder, a danger to self or others, ~~a patient with~~ OR DOES NOT
29 HAVE a persistent or acute disability or a grave disability, the patient
30 shall be released.

31 D. The ~~division~~ DEPARTMENT, acting on behalf of the state hospital,
32 THE ADMINISTRATION OR A REGIONAL BEHAVIORAL HEALTH AUTHORITY, may intervene
33 as a party to the proceedings on any petition for court-ordered treatment and
34 may appear as a party at the hearing on the petition by filing a written
35 notice of intervention with the clerk of the superior court in the county in
36 which the petition was filed, at any time before either the original time set
37 for the hearing or the time to which the hearing is continued. The
38 intervenor at the hearing may cross-examine any witnesses presented by other
39 parties pursuant to section 36-539, may subpoena and present witnesses of its
40 own, including physicians, and may present other evidence. The intervenor,
41 on stipulation with all other parties or on order of the court, may cause
42 physicians to personally conduct mental status examinations of the proposed
43 patient and to testify as to their opinions concerning whether the proposed
44 patient is, as a result of mental disorder, a danger to self or to others, ~~OR~~
45 OR has a persistent or acute disability or a grave disability and as to

1 whether the proposed patient requires treatment. This subsection applies in
2 addition to all rules of evidence, the Arizona rules of civil procedure and
3 section 36-539.

4 Sec. 32. Section 36-540.02, Arizona Revised Statutes, is amended to
5 read:

6 36-540.02. Transfer of a person with a grave disability without
7 a guardian from a mental health treatment agency
8 to another health care facility

9 A. A person who does not have a guardian under ~~the provisions of~~
10 section 14-5312.01 and who has been found by the court to ~~be a person with~~
11 **HAVE** a grave disability and ordered to undergo treatment pursuant to this
12 article may receive care in another health care institution licensed by the
13 department during the course of the person's court-ordered treatment in
14 accordance with ~~department~~ **ADMINISTRATION** rules.

15 B. The ~~deputy director, with the approval of the director,~~ shall adopt
16 rules pertaining to persons described in subsection A of this section to
17 provide for their alternative care in another health care institution
18 licensed by the department during the course of court-ordered treatment. The
19 rules shall allow transfer of patients from a mental health treatment agency
20 to another health care institution, transfer from one such institution to
21 another and return to a mental health treatment agency.

22 Sec. 33. Section 36-541.01, Arizona Revised Statutes, is amended to
23 read:

24 36-541.01. Release or discharge from treatment before
25 expiration of period ordered by court;
26 notification of intent to release or discharge;
27 hearing

28 A. A patient **WHO IS** ordered to undergo treatment pursuant to this
29 article may be released from treatment before the expiration of the period
30 ordered by the court if, in the opinion of the medical director of the mental
31 health treatment agency, the patient no longer is, as a result of a mental
32 disorder, a danger to others, ~~OR~~ a danger to self, ~~OR NO LONGER~~ has a
33 persistent or acute disability or a grave disability. A person **WHO IS**
34 ordered to undergo treatment as a danger to others may not be released or
35 discharged from treatment before the expiration of the period for treatment
36 ordered by the court unless the medical director first gives notice of
37 intention to do so as provided by this section.

38 B. Before the release or discharge of a patient **WHO IS** ordered to
39 undergo treatment, the medical director of the mental health treatment agency
40 shall notify the following of the medical director's intention to release or
41 discharge the patient:

42 1. The presiding judge of the court that entered the order for
43 treatment.

1 2. Any relative or victim of the patient who has filed a demand for
2 notice with the treatment agency.

3 3. Any person found by the court to have a legitimate reason for
4 receiving notice.

5 C. If criminal charges against a patient involving death or serious
6 physical injury or a violation of title 13, chapter 14 are dismissed pursuant
7 to section 13-4517, the medical director shall notify the prosecuting agency
8 if a civil commitment order issued pursuant to this chapter expires or is
9 terminated, or if the patient is discharged to outpatient treatment. The
10 medical director shall provide this notice by mail at least five days before
11 the anticipated date of the expiration, termination or discharge.

12 D. If the director of the mental health treatment agency is unable to
13 determine, based on the information submitted pursuant to subsection E **OF**
14 **THIS SECTION**, that a person who has filed a demand for notice is a victim,
15 the director shall inform that person that that person's demand for notice is
16 denied and that notice will not be given unless ordered by the court pursuant
17 to subsection F **OF THIS SECTION**.

18 E. A demand for notice by a relative or victim, and a petition for
19 notice by other persons, shall be on a form prescribed by the ~~department~~
20 **ADMINISTRATION** and shall include the following information:

21 1. The full name of the person to receive notice.

22 2. The address to which notice is to be mailed.

23 3. The telephone number of the person to receive notice.

24 4. The relationship to the patient, if any, or the reasons why the
25 person believes the person has a legitimate reason to receive notice.

26 5. A statement that the person will advise the treatment agency in
27 writing by certified mail, return receipt requested, of any change in the
28 address to which notice is to be mailed.

29 6. The full name of the patient ordered to undergo treatment as a
30 danger to others.

31 7. The mental health number assigned to the case by the superior
32 court.

33 F. If the court receives a demand for notice by a relative or victim,
34 the court shall order the medical director of the mental health treatment
35 agency not to release or discharge the patient before the expiration of the
36 period of court-ordered treatment without first giving notice to the relative
37 or victim as provided in subsection G **OF THIS SECTION**. After considering a
38 petition for notice, if the court finds that the petitioner has a legitimate
39 reason for receiving prior notice, the court may order the medical director
40 of the mental health treatment agency not to release or discharge the patient
41 from inpatient treatment before the expiration of the period of court-ordered
42 treatment without first giving notice to the petitioner as provided in
43 subsection G **OF THIS SECTION**. Any order for notice shall be delivered to the
44 mental health treatment agency and shall be filed with the patient's clinical

1 record. If the patient is transferred to another agency or institution, any
2 orders for notice shall be transferred with the patient.

3 G. A notice of intention to release or discharge shall include the
4 following information:

5 1. The name of the patient to be released or discharged.

6 2. The type of release or discharge.

7 3. The date of anticipated release or discharge. Notices shall be
8 placed in the mail, postage prepaid and addressed to the court and to each
9 person for whom notice has been ordered, at least ten days before the date of
10 intended release or discharge, except THAT notice shall be sent to the
11 prosecuting agency at least five days before the date of intended release or
12 discharge. For purposes of computing the notice requirement, the day of
13 mailing shall not be counted.

14 H. Any person for whom prior notice is required pursuant to this
15 section, or the court, may make a motion within the notification period that
16 requires the court to determine whether the standard for release of the
17 patient before the expiration of the period for court-ordered treatment has
18 been met. A determination that the standard for release has been met may be
19 made by the court based on a review of the record and any affidavits
20 submitted without further hearing. For good cause, the court may order an
21 evidentiary hearing. Whether or not a hearing is held, the court shall make
22 a determination at the earliest possible time but no longer than three weeks
23 after the anticipated date of release pursuant to subsection G OF THIS
24 SECTION, and the patient shall be retained for the additional time required
25 for the court's determination. In making its determination the court may
26 order an independent examination of the patient. If a motion is not made,
27 the patient may be released in accordance with the terms set forth in the
28 notice without further court order.

29 I. If a motion has not been made pursuant to subsection H OF THIS
30 SECTION, the patient may be released or discharged and the medical director
31 of the mental health treatment agency shall send to the court a certificate
32 that the patient is no longer a danger to others, ~~OR~~ a danger to self, ~~OR~~
33 NO LONGER has a persistent or acute disability or a grave disability as the
34 result of a mental disorder and therefore is released before the expiration
35 of the period ordered for treatment. The court shall enter an order
36 terminating the patient's court-ordered treatment.

37 J. The medical director of the mental health treatment agency shall
38 not be held civilly liable for any acts committed by a patient WHO IS
39 released before the expiration of the period of court-ordered treatment if
40 the medical director has in good faith followed the requirements of this
41 section.

1 Sec. 34. Section 36-543, Arizona Revised Statutes, is amended to read:
2 36-543. Release from treatment of a patient with a grave
3 disability or a persistent or acute disability;
4 annual review; court order for continued treatment;
5 rules

6 A. A patient WHO IS found to have a grave disability or a persistent
7 or acute disability and ordered to undergo treatment may be released from
8 inpatient treatment when, in the opinion of the medical director of the
9 mental health treatment agency, the level of care offered by the agency is no
10 longer required. The patient may agree to continue treatment voluntarily.
11 If the patient is to be released, the medical director shall arrange for an
12 appropriate alternative placement.

13 B. If a patient WHO IS to be released from inpatient treatment is
14 under guardianship, the medical director of the mental health treatment
15 agency shall notify the guardian and any relevant regional behavioral health
16 authority ten days before the intended release date that the ward no longer
17 requires the level of care offered by the agency. The guardian and, if
18 relevant, the regional behavioral health authority shall arrange alternative
19 placement with the advice and recommendations of the medical director of the
20 mental health treatment agency.

21 C. The medical director of the mental health treatment agency is not
22 civilly liable for any acts committed by the released patient if the medical
23 director has in good faith complied with the requirements of this article.

24 D. Within ninety days before the expiration of a court order for
25 treatment, the medical director of the mental health treatment agency shall
26 conduct an annual review of a patient who has been found to have a grave
27 disability or a persistent or acute disability and is undergoing
28 court-ordered treatment to determine whether the continuation of
29 court-ordered treatment is appropriate and to assess the needs of the patient
30 for guardianship or conservatorship, or both. The annual review shall
31 consist of the mental health treatment and clinical records contained in the
32 patient's treatment file. The mental health treatment agency shall keep a
33 record of the annual review. If the medical director believes that a
34 continuation of court-ordered treatment is appropriate, the medical director
35 of the mental health treatment agency shall appoint one or more psychiatrists
36 to carry out a psychiatric examination of the patient. In any proceeding
37 conducted pursuant to this section, a patient has the right to have an
38 analysis of the patient's mental condition by an independent evaluation
39 pursuant to section 36-538.

40 E. Each examiner participating in the psychiatric examination of the
41 patient shall submit a report to the medical director of the mental health
42 treatment agency that includes the following:

43 1. The examiner's opinions as to whether the patient continues to have
44 a grave disability or a persistent or acute disability as the result of a
45 mental disorder and BE in need of continued court-ordered treatment. In

1 evaluating the patient's need for continued court-ordered treatment, the
2 examiner must consider, along with all other evidence, the patient's history
3 before and during the current period of court-ordered treatment, the
4 patient's compliance with recommended treatment and any other evidence
5 relevant to the patient's ability and willingness to follow recommended
6 treatment with or without a court order.

7 2. A statement as to whether suitable alternatives to court-ordered
8 treatment are available.

9 3. A statement as to whether voluntary treatment would be appropriate.

10 4. A review of the patient's status as to guardianship or
11 conservatorship, or both, the adequacy of existing protections of the patient
12 and the continued need for guardianship or conservatorship, or both. If the
13 examiner concludes that the patient's needs in these areas are not being
14 adequately met, the examiner's report shall recommend that the court order an
15 investigation into the patient's needs.

16 5. If the patient has an existing guardian who does not have the
17 mental health powers authorized pursuant to section 14-5312.01, a
18 recommendation as to whether the additional mental health powers authorized
19 by section 14-5312.01 should be imposed on the existing guardian and whether
20 the patient's needs can be adequately addressed by a guardian with mental
21 health powers without the need for a court order for treatment or whether the
22 court order for treatment should continue regardless of the additional mental
23 health powers imposed on the guardian.

24 6. The results of any physical examination conducted during the period
25 of court-ordered treatment if relevant to the psychiatric condition of the
26 patient.

27 F. After conducting the annual review as prescribed in this section,
28 if the medical director believes that continued court-ordered treatment is
29 necessary or appropriate, not later than thirty days before the expiration of
30 the court order for treatment, the medical director shall file with the court
31 an application for continued court-ordered treatment alleging the basis for
32 the application and shall file simultaneously with the application any
33 psychiatric examination conducted as part of the annual review. If the
34 patient is under guardianship, the medical director shall mail a copy of the
35 application to the patient's guardian.

36 G. If an application for continued court-ordered treatment is filed,
37 all of the following apply:

38 1. If the patient does not have an attorney, the court shall appoint
39 an attorney to represent the patient.

40 2. Within ten days after appointment, an attorney appointed pursuant
41 to this subsection, to the extent possible, shall fulfill the duties imposed
42 pursuant to section 36-537, review the medical director's report and the
43 patient's medical records, interview any physician who prepared a report on
44 the annual review and file a response requesting a hearing or submitting the
45 matter to the court for a ruling based on the record without a hearing.

1 3. If a hearing is not requested, the court shall rule on the
2 application or set the matter for hearing. If a hearing is requested, the
3 hearing shall be held within three weeks after the request for hearing is
4 filed. The hearing may be continued for good cause on motion of a party or
5 on the court's own motion, and the expiration of the current court order for
6 treatment may be extended until a ruling by the court on an application filed
7 pursuant to this subsection.

8 4. The patient's attorney must be present at all hearings and may
9 subpoena and cross-examine witnesses and present evidence. The patient has
10 the right to attend all hearings, but may choose not to attend a hearing.
11 The patient's attorney may waive the patient's presence after speaking with
12 the patient and confirming that the patient understands the right to be
13 present and does not desire to attend. If the patient is unable to be
14 present at the hearing for medical or psychiatric reasons and the hearing
15 cannot be conducted where the patient is being treated or confined, or the
16 patient cannot appear by another reasonably feasible means, the court shall
17 require clear and convincing evidence that the patient is unable to be
18 present at the hearing and on such a finding may proceed with the hearing in
19 the patient's absence.

20 5. The evidence presented by the applicant includes the testimony of
21 one or more witnesses acquainted with the patient during the period of
22 court-ordered treatment, which may be satisfied by a statement agreed on by
23 the parties, and the testimony of any physician who performed an annual
24 review of the patient, which may be satisfied by stipulating to the admission
25 of the examining physicians' written report prepared pursuant subsection E of
26 this section. The court may waive the need for the applicant to present the
27 testimony of witnesses acquainted with the patient as required by this
28 subsection, if it finds that the need for a continued court order for
29 treatment has been established by clear and convincing evidence from the
30 other testimony and evidence presented at the hearing.

31 6. At a hearing held pursuant to this subsection, the court, with
32 notice, may impose on an existing guardian additional powers pursuant to
33 section 14-5312.01. If the court finds that the patient's needs can be
34 adequately met by an existing guardian with the additional powers pursuant to
35 section 14-5312.01 and that a court order for treatment is not necessary to
36 ensure compliance with necessary treatment, the court may terminate the court
37 order for treatment or decline to issue an order continuing court-ordered
38 treatment. The court may also order an investigation into the need for
39 guardianship or conservatorship, or both, and may appoint a suitable person
40 or agency to conduct the investigation. The appointee may include a
41 court-appointed guardian ad litem, a court-appointed investigator pursuant to
42 section 14-5308 or the public fiduciary if there is no person willing and
43 qualified to act in that capacity. The court shall give notice of the
44 appointment to the appointee within three days after the appointment. The
45 appointee shall submit the report of the investigation to the court within

1 twenty-one days. The report shall include recommendations as to who should
2 be guardian or conservator, or both, and the findings and reasons for the
3 recommendation. If the investigation and report so indicate, the court may
4 authorize an appropriate person to file a petition for appointment of a
5 guardian or conservator for the patient.

6 H. If a hearing is held pursuant to subsection G of this section, the
7 party seeking the renewal of the court order must prove all of the following
8 by clear and convincing evidence:

9 1. The patient continues to have a mental disorder and, as a result of
10 that disorder, has either a persistent or acute disability or a grave
11 disability.

12 2. The patient is in need of continued court-ordered treatment.

13 3. The patient is either unwilling or unable to accept treatment
14 voluntarily.

15 I. After a hearing held pursuant to subsection G of this section, the
16 court may order the patient to be released from court-ordered treatment or to
17 undergo continued court-ordered treatment for a period not to exceed the time
18 periods prescribed in section 36-540, subsection D.

19 J. The ~~deputy~~ director shall create and operate a program to ensure
20 that the examination and review of persons with grave disabilities or
21 persistent or acute disabilities under court order are carried out in an
22 effective and timely manner. The ~~deputy~~ director, ~~with the approval of the~~
23 ~~director~~, shall adopt rules needed to operate this program.

24 Sec. 35. Section 36-545.01, Arizona Revised Statutes, is amended to
25 read:

26 36-545.01. Payment of costs and expenses; ability to pay; power
27 and duty of court; acceptance of other benefits;
28 per capita cost limitation; guardians; parental
29 liability; lien; duty of county attorney

30 A. When a patient is admitted to the state hospital for court-ordered
31 treatment pursuant to article 5 of this chapter or pursuant to section
32 13-3994, the business manager of the state hospital shall inquire into the
33 ability of the patient to pay the costs of examination, maintenance and
34 treatment. The business manager shall file with the clerk of the court a
35 written report of the manager's findings and the basis of those findings.

36 B. If the patient is able to pay all or any portion of the charges,
37 the court shall order the payment of the amount the patient can afford of the
38 per capita cost for examination, treatment and maintenance as estimated by
39 the ~~deputy director~~ SUPERINTENDENT. The court, ~~may, upon~~ ON petition of an
40 interested person, ~~and~~ at a hearing of which all concerned parties have
41 received notice, ~~MAY~~ increase or decrease the maintenance charge payable by
42 the patient or the patient's estate.

43 C. Notwithstanding subsection B of this section, any federal, state,
44 public or private medical benefits ~~which~~ THAT are payable to the state
45 hospital where the patient is receiving care and treatment or ~~which~~ THAT are

1 payable to the patient may be accepted by the state hospital without a court
2 order, except that the state hospital shall not accept any such benefits
3 ~~which~~ THAT alone or in addition to any amounts payable pursuant to subsection
4 B of this section exceed the per capita cost for the patient.

5 D. The court ~~may~~, if necessary, MAY appoint a conservator of the
6 patient to carry out this section. If a conservator is appointed, the clerk
7 of the court shall file a certificate so stating. All proceedings relating
8 to ~~such~~ THAT conservatorship shall be had as provided by law for conservators
9 of estates. The conservator shall pay the amount ordered by the court
10 pursuant to subsection B of this section.

11 E. If the patient is a minor, the business manager of the state
12 hospital shall inquire into the ability of the minor's parents to bear
13 charges pursuant to this section. All obligations, charges and liens that
14 may be imposed on a patient pursuant to this section shall be imposed on the
15 minor's parents if it is determined that the parents have the ability to pay.

16 F. The charges fixed by the court as provided by this section and
17 ordered paid by the patient or the patient's estate, ~~shall, upon~~ ON filing
18 with the county recorder, become a lien ~~upon~~ ON THE property of the patient
19 or the patient's estate.

20 G. The county attorney of each county, ~~shall, upon~~ ON an order of a
21 judge of the superior court, SHALL enforce the lien and collect the charges
22 from the person ordered to pay if the charges become delinquent.

23 H. Costs of examination, treatment and maintenance shall not be
24 charged to any patient found by a court of competent jurisdiction to be
25 unlawfully detained.

26 I. Notwithstanding section 36-545.02, the department shall deposit,
27 pursuant to sections 35-146 and 35-147, monies collected through contracts
28 entered into pursuant to section 36-3410 in the Arizona state hospital fund
29 established by section 36-545.08. The department shall use these monies for
30 the treatment of patients at the state hospital or for the placement of
31 clients in the community.

32 Sec. 36. Section 36-545.05, Arizona Revised Statutes, is amended to
33 read:

34 36-545.05. Charges for treatment by agencies under
35 administration contract; charges for prepetition
36 screening and court-ordered evaluation prohibited

37 A. When a person is given a prepetition screening, or a court-ordered
38 evaluation by a screening agency or evaluation agency pursuant to ~~the~~
39 ~~provisions of~~ article 4 of this chapter, the person shall not be charged.

40 B. When a patient is given voluntary treatment pursuant to ~~the~~
41 ~~provisions of~~ article 3 of this chapter or court-ordered treatment pursuant
42 to ~~the provisions of~~ article 5 of this chapter, the patient or proposed
43 patient ~~will~~ SHALL pay all or such portion of the established charges as the
44 patient can afford. If the patient is indigent, no charges shall be made
45 against ~~him~~ THE PATIENT.

1 purpose, number, extent and limitations, if any, or any other requirements
2 the ~~deputy director~~ ADMINISTRATION deems necessary for the proper
3 administration of services under the plan of the ~~division~~ ADMINISTRATION.

4 F. A contract may specify that the county's participation fulfills in
5 full or in part the requirements of the county to provide services under
6 section 36-545.06 and the requirements of the county to pay the cost of
7 services under section 36-545.04.

8 Sec. 39. Section 36-550, Arizona Revised Statutes, is amended to read:
9 36-550. Definitions

10 In this article, unless the context otherwise requires:

11 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
12 SYSTEM ADMINISTRATION.

13 ~~1.~~ 2. "Community residential treatment system" means a statewide
14 system of community-based residential treatment programs for the seriously
15 mentally ill ~~which~~ THAT provides a wide range of services as alternatives to
16 institutionalization and in the least restrictive setting.

17 ~~2. "Deputy director" means the deputy director of the division of~~
18 ~~behavioral health in the department of health services.~~

19 ~~3. "Division" means the division of behavioral health in the~~
20 ~~department of health services.~~

21 3. "DIRECTOR" MEANS THE DIRECTOR OF THE ADMINISTRATION.

22 4. "Seriously mentally ill" means persons, ~~who~~ as a result of a
23 mental disorder as defined in section 36-501 exhibit emotional or behavioral
24 functioning ~~which~~ THAT is so impaired as to interfere substantially with
25 their capacity to remain in the community without supportive treatment or
26 services of a long-term or indefinite duration. In these persons mental
27 disability is severe and persistent, resulting in a long-term limitation of
28 their functional capacities for primary activities of daily living such as
29 interpersonal relationships, homemaking, self-care, employment and
30 recreation.

31 Sec. 40. Section 36-550.01, Arizona Revised Statutes, is amended to
32 read:

33 36-550.01. Statewide plan for community residential treatment

34 A. The ~~deputy~~ director shall establish a statewide plan for a
35 community residential treatment system ~~by July 1, 1983~~. ~~Such~~ THE plan shall
36 provide for a statewide system of mental health residential treatment
37 programs ~~which~~ THAT provides to the seriously mentally ill a wide range of
38 programs and services, as identified in section 36-550.05, as alternatives to
39 institutional care.

40 B. ~~In addition to the provisions in subsection A of this section,~~ The
41 statewide plan shall include the following elements:

42 1. A description on a county-by-county basis of the current programs
43 and service delivery mechanisms providing services to the seriously mentally
44 ill.

1 2. An identification of areas within the state where multiple
2 jurisdictions could participate in program delivery utilizing
3 intergovernmental contracts.

4 3. Goals, objectives and priorities for the delivery of such services
5 and methods to evaluate program effectiveness of goals, objectives and
6 priorities.

7 4. Cooperation with the counties to develop and maintain a coordinated
8 system for delivery of residential care.

9 5. Methods for estimating the need for community residential treatment
10 services and for allocating state ~~funds~~ MONIES according to that need.

11 C. The ~~deputy~~ director may establish ~~such~~ rules ~~and regulations, with~~
12 ~~the approval of the director,~~ as are necessary for the implementation of this
13 article.

14 Sec. 41. Section 36-550.02, Arizona Revised Statutes, is amended to
15 read:

16 36-550.02. County responsibilities in statewide planning
17 process

18 A. Each county shall be responsible for developing an individual
19 county profile of existing programs, needs and goals for consideration by the
20 director for inclusion within the statewide plan as required in section
21 36-550.01.

22 B. The ~~deputy~~ director, ~~upon~~ ON receipt of the county profile required
23 in subsection A of this section, shall incorporate those portions compatible
24 with the statewide plan, and, in cooperation with the county, modify those
25 portions of the profile determined by the ~~deputy~~ director to be incompatible
26 with the statewide plan.

27 Sec. 42. Section 36-550.03, Arizona Revised Statutes, is amended to
28 read:

29 36-550.03. Statewide plan implementation: contract
30 requirements; exception

31 A. ~~Upon~~ ON establishment of the statewide plan for a community
32 residential treatment system as required in section 36-550.01, the ~~deputy~~
33 director shall provide for the delivery of such programs and services,
34 utilizing all ~~funds~~ MONIES identified and available for the seriously
35 mentally ill, in the following manner:

36 1. Provide such programs and services directly through the ~~division~~
37 ~~ADMINISTRATION~~ or by contract with other public or private agencies.

38 2. Contract with individual counties to provide programs and services
39 directly or by contract with other public or private agencies.

40 3. Provide for programs and services by any combination of service
41 delivery mechanisms as prescribed in paragraphs 1 and 2 of this subsection.

42 B. The ~~deputy~~ director may use any ~~funds~~ MONIES available to the
43 ~~division~~ ADMINISTRATION for the purposes of this article to provide for the
44 establishment and maintenance of community residential treatment programs and
45 services. If the ~~deputy~~ director contracts with a county as prescribed in

1 subsection A of this section, the ~~deputy~~ director may require not more than a
2 twenty-five ~~per cent~~ PERCENT match of local or other ~~funds~~ MONIES. The
3 matching requirement for local or other ~~funds~~ MONIES may be provided by
4 either direct funding or by in-kind services.

5 C. If the programs and services prescribed in subsection A of this
6 section are provided through a contract with a private agency, the ~~deputy~~
7 director shall not require matching ~~funds~~ MONIES as a condition for a
8 contract to provide services.

9 Sec. 43. Section 36-550.04, Arizona Revised Statutes, is amended to
10 read:

11 36-550.04. Evaluation system; contract requirements

12 A. The ~~deputy~~ director shall develop and implement an evaluation
13 system ~~which shall include, but not be limited to,~~ THAT INCLUDES program
14 planning and development, fiscal and data management and contract
15 administration.

16 B. A county ~~which~~ THAT desires to contract with the ~~deputy director~~
17 ADMINISTRATION to deliver programs and services as provided by this article
18 may initiate such A contract ~~upon~~ ON a majority vote of the COUNTY'S board of
19 supervisors. ~~Such~~ THE contract may be implemented directly by the county or
20 indirectly by contract with other public or private nonprofit agencies.

21 C. Any county contracting with the ~~division~~ ADMINISTRATION shall meet
22 the evaluation requirements established by the ~~deputy~~ director pursuant to
23 subsection A OF THIS SECTION.

24 Sec. 44. Section 36-550.06, Arizona Revised Statutes, is amended to
25 read:

26 36-550.06. Client eligibility

27 A. The seriously mentally ill are eligible for services under this
28 article if they comply with the eligibility screening and application process
29 prescribed in section 36-3408, and under any of the following circumstances:

30 1. They voluntarily seek the services.

31 2. The ~~department~~ REGIONAL BEHAVIORAL HEALTH AUTHORITY receives a
32 request for these services from a guardian who is authorized to consent to
33 inpatient treatment pursuant to section 14-5312.01.

34 3. A court orders that they receive the services.

35 4. The chief medical officer of the Arizona state hospital recommends
36 they receive such services.

37 B. Programs and services identified in section 36-550.05 may include
38 purchase of care support payments to persons to supplement social security,
39 supplemental security income or ~~veterans administration~~ UNITED STATES
40 DEPARTMENT OF VETERANS AFFAIRS disability payments, and client fees when
41 available.

1 Sec. 47. Section 36-2021, Arizona Revised Statutes, is amended to
2 read:

3 36-2021. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
6 SYSTEM ADMINISTRATION.

7 ~~1-~~ 2. "Alcoholic" means a person who habitually lacks self-control
8 with respect to the use of alcoholic beverages or who uses alcoholic
9 beverages to the extent that ~~his~~ THE PERSON'S health is substantially
10 impaired or endangered or ~~his~~ social or economic functions are substantially
11 disrupted.

12 ~~2-~~ 3. "Approved private treatment facility" means a private agency
13 meeting the standards established by the ~~division~~ DEPARTMENT and approved
14 pursuant to sections 36-2023 and 36-2029.

15 ~~3-~~ 4. "Approved public treatment facility" means a treatment agency
16 operating under the directions and control of a county, providing treatment
17 through a contract with a county, meeting the standards established by the
18 ~~division~~ DEPARTMENT and approved pursuant to sections 36-2023 and 36-2029.

19 ~~4-~~ 5. "Chronic alcoholic" means an alcoholic who is incapacitated by
20 alcohol and who during the preceding twelve months has been admitted to a
21 local alcoholism reception center on ten or more occasions or has been
22 admitted for three or more episodes of inpatient or residential alcoholism
23 treatment.

24 ~~5-~~ 6. "Court" means a court of record, a justice of the peace court,
25 a police court or a city court authorized by charter.

26 ~~6-~~ 7. "Department" means the department of health services.

27 ~~7-~~ "Deputy director" means the deputy director of the division of
28 behavioral health in the department of health services.

29 8. "Director" means the director of the ~~department of health services~~
30 ADMINISTRATION.

31 ~~9-~~ "Division" means the division of behavioral health in the
32 department of health services.

33 ~~10-~~ 9. "Evaluation" means A multidisciplinary professional analysis
34 of a person's medical, psychological, social, financial and legal conditions.
35 Persons providing evaluation services shall be properly qualified
36 professionals and may be full-time employees of an approved treatment
37 facility providing evaluation services or may be part-time employees or may
38 be employed on a contractual basis.

39 ~~11-~~ 10. "Incapacitated by alcohol" means that a person as a result of
40 the use of alcohol is unconscious or has ~~his~~ judgment otherwise so impaired
41 that ~~he~~ THE PERSON is incapable of realizing and making a rational decision
42 with respect to ~~his~~ THE PERSON'S need for evaluation and treatment, is unable
43 to take care of ~~his~~ basic personal needs or safety such as food, clothing,
44 shelter or medical care or lacks sufficient understanding or capacity to make
45 or communicate rational decisions ~~concerning himself~~.

1 ~~12-~~ 11. "Intoxicated person" means a person whose mental or physical
2 functioning is substantially impaired as a result of the immediate effects of
3 alcohol in ~~his~~ THE PERSON'S system.

4 ~~13-~~ 12. "Local alcoholism reception center" or "center" means an
5 initial reception agency for a person who is intoxicated or who is
6 incapacitated by alcohol to receive initial evaluation and processing for
7 assignment for further evaluation or into a treatment program.

8 ~~14-~~ 13. "Treatment" means the broad range of emergency, outpatient,
9 intermediate and inpatient services and care, including diagnostic
10 evaluation, medical, psychiatric, psychological and social service care,
11 vocational rehabilitation and career counseling, which may be extended to
12 alcoholics and intoxicated persons.

13 Sec. 48. Section 36-2022, Arizona Revised Statutes, is amended to
14 read:

15 36-2022. Establishment of facilities

16 A. The ~~division, with the approval of the director,~~ ADMINISTRATION
17 shall develop, encourage and foster statewide, county and local plans and
18 programs for the prevention of alcoholism and treatment of alcoholics and
19 intoxicated persons in cooperation with public and private agencies,
20 organizations and individuals and provide technical assistance and
21 consultation services for these purposes.

22 B. Counties may establish a public treatment facility or facilities
23 for the evaluation and treatment of alcoholics and intoxicated persons by
24 resolution of the board of supervisors.

25 C. Counties may contract with other counties for the services of a
26 public treatment facility or may contract with a private treatment facility.

27 Sec. 49. Section 36-2023, Arizona Revised Statutes, is amended to
28 read:

29 36-2023. Rules

30 A. The department shall adopt and enforce rules to establish standards
31 for approved public and private treatment facilities that must be met for a
32 treatment facility to be approved. The department periodically shall inspect
33 approved facilities at reasonable times and in a reasonable manner. Each
34 approved public and private treatment facility shall file with the department
35 on request information the department requires pursuant to rule. The
36 department shall remove from the list of approved treatment facilities ~~an~~
37 ~~approved~~ A facility that without good cause fails to furnish information as
38 requested or that files fraudulent information.

39 B. The department in compliance with subsection A OF THIS SECTION
40 shall adopt and may amend or repeal rules for the acceptance of persons into
41 a treatment program, in light of the available treatment resources and
42 facilities, with a view to the early and effective provision of evaluation
43 and treatment for alcoholics and intoxicated persons. In establishing the
44 rules, the department shall be guided by the following standards:

1 1. An intoxicated person or person incapacitated by alcohol, who
2 voluntarily seeks treatment or who is transported to an approved facility by
3 a peace officer or other person, shall be initially brought to and evaluated
4 at a local alcoholism reception center.

5 2. A person shall receive an initial evaluation.

6 3. A patient shall be initially assigned or transferred to outpatient
7 treatment or intermediate treatment, unless the person is found to require
8 inpatient treatment.

9 4. A person shall not be denied treatment solely because the person
10 has withdrawn from treatment against medical advice on a prior occasion or
11 because the person has relapsed after earlier treatment.

12 5. An individualized treatment plan shall be prepared and maintained
13 on a current basis for each patient.

14 6. Provision shall be made for a continuum of coordinated treatment
15 services, so that a person who leaves the facility or another form of
16 treatment will have available and use other appropriate treatment.

17 C. The ~~department~~ ADMINISTRATION shall:

18 1. Enlist the assistance of all public and private agencies,
19 organizations and individuals engaged in the prevention of alcoholism and
20 treatment of alcoholics and intoxicated persons at approved public and
21 private facilities.

22 2. Cooperate with the state department of corrections in establishing
23 and conducting programs to provide treatment for alcoholics in penal
24 institutions and alcoholics on parole or community supervision from penal
25 institutions at approved public and private facilities.

26 3. Cooperate with the department of education, schools, police
27 departments, courts and other public and private agencies, organizations and
28 individuals in establishing programs for the prevention of alcoholism and
29 treatment of alcoholics and intoxicated persons and in preparing curriculum
30 materials for use at all levels of school education.

31 4. Specify a uniform method for keeping statistical information by
32 approved public and private treatment facilities and collect and make
33 available relevant statistical information, including the number of persons
34 treated, frequency of admission, and readmission and frequency and duration
35 of treatment.

36 5. Cooperate with the department of transportation in establishing and
37 conducting programs designed to deal with the problem of persons operating
38 motor vehicles while intoxicated.

39 6. Prepare an annual report on drug abuse treatment programs in this
40 state that receive ~~funds~~ MONIES from the ~~department~~ ADMINISTRATION to be
41 submitted by January 1 of each year to the governor, the president of the
42 senate and the speaker of the house of representatives and to be made
43 available to the general public through the Arizona drug and gang prevention
44 resource center. The report shall include:

45 (a) The name and location of each program.

- 1 (b) The amount and sources of funding for each program.
- 2 (c) The number of clients who received services during the preceding
- 3 fiscal year.
- 4 (d) A description of the demographic characteristics of the client
- 5 population served by each program, including age groups, gender and
- 6 ethnicity.
- 7 (e) A description of client problems addressed by the programs,
- 8 including the types of substances abused.
- 9 (f) A summary of the numbers and types of services available and
- 10 provided during the preceding fiscal year.
- 11 (g) An evaluation of the results achieved by the programs.

12 Sec. 50. Section 36-2024, Arizona Revised Statutes, is amended to
13 read:

14 36-2024. Treatment of alcoholics

15 A. An alcoholic may apply for evaluation and treatment directly to any
16 approved public or private treatment facility. If the applicant is a minor
17 or incompetent person, either ~~he~~ THE APPLICANT or a parent, legal guardian or
18 other legal representative OF THE APPLICANT shall ~~make the application~~ APPLY
19 for evaluation and treatment.

20 B. Subject to rules adopted by the ~~division, with the approval of the~~
21 ~~director~~ DEPARTMENT, the administrator in charge of any approved public or
22 private treatment facility may determine who shall be admitted for evaluation
23 and treatment. If a person is refused admission to an approved private
24 treatment facility because of financial reasons, the administrator in charge,
25 subject to rules established by the ~~division, with the approval of the~~
26 ~~director~~ DEPARTMENT, shall refer the person to an approved public treatment
27 facility for treatment, if possible and appropriate.

28 C. If a patient WHO IS receiving inpatient care leaves an approved
29 treatment facility, ~~he~~ THE PATIENT shall be encouraged to consent to
30 appropriate outpatient treatment or intermediate treatment.

31 Sec. 51. Section 36-2026, Arizona Revised Statutes, is amended to
32 read:

33 36-2026. Emergency admission

34 A. A publicly intoxicated person may be brought by a peace officer or
35 any other person to an approved local alcoholism reception center for
36 emergency evaluation and treatment if the intoxicated person:

37 1. Has threatened, attempted or inflicted physical harm on self or
38 others, and is likely to inflict physical harm on self or others unless
39 admitted.

40 2. Is incapacitated by alcohol.

41 B. A peace officer who has reasonable cause to believe that a person
42 is intoxicated in a public place and ~~such~~ THAT THE person is or may be a
43 danger to self or others may transport ~~such~~ THE person to a local alcoholism
44 reception center. Unnecessary or unreasonable force shall not be used in
45 transporting the person, and the person shall not be subjected to any greater

1 restraint than is necessary to transport the person to the local alcoholism
2 reception center.

3 C. A peace officer, ~~—~~ who has reasonable cause to believe that a person
4 is intoxicated in a public place or a place open to the public, ~~and~~ THAT the
5 person is or may be a danger to self or others and THAT there is no
6 responsible person immediately available to assist the intoxicated person, ~~—~~
7 may transport the person to a detention facility if both of the following
8 ~~circumstances exist~~ APPLY:

9 1. A local alcoholism reception center or other approved facility is
10 not available within ten miles or the peace officer has determined that the
11 local alcoholism reception center or other approved facility is filled to
12 capacity and has no further capacity at the present time to provide
13 evaluation and treatment services to additional persons.

14 2. The peace officer has been informed by the governing body of the
15 city or town or the board of supervisors of the county in which the peace
16 officer is employed that the ~~deputy director of the division of behavioral~~
17 ~~health~~ DEPARTMENT has determined that ~~such~~ THE city, town or county has made
18 a reasonable effort to provide adequate local alcoholism reception services
19 for persons incapacitated by alcohol and, based on that determination, has
20 issued a renewable three-month temporary waiver to allow the transportation
21 of certain intoxicated persons in the city, town or county to detention
22 facilities pursuant to this section. The determination may be made by the
23 ~~deputy~~ director OF THE DEPARTMENT on application by the governing body of the
24 city or town or the board of supervisors of a county.

25 D. An intoxicated person WHO IS received or accepted by a local
26 alcoholism reception center or detention facility shall not be subject to
27 unnecessary or unreasonable force. The local alcoholism reception center or
28 detention facility shall use such methods and exercise such restraint of the
29 intoxicated person as is reasonably necessary for the safety of ~~such~~ THE
30 person and others and consistent with ~~the provisions of~~ this section.

31 E. The administrator in charge of an approved local alcoholism
32 reception center shall discharge any person admitted pursuant to this section
33 not more than twenty-four hours, excluding weekends and holidays, after the
34 person requests to be discharged or after the administrator on advice of the
35 medical staff determines that the grounds for admission no longer exist.

36 F. Any person WHO IS transported to a detention facility pursuant to
37 this section may be held in protective custody until the person is no longer
38 intoxicated, until released to a responsible person or for a period not
39 exceeding twelve hours, whichever occurs first.

40 G. Any person WHO IS released from protective custody pursuant to this
41 section may BE TRANSPORTED at that person's request ~~be transported~~
42 alcoholism reception center or approved facility for evaluation and treatment
43 ~~provided~~ IF such facilities are available.

1 H. A person WHO IS held in protective custody pursuant to this section
2 is not considered to have been arrested or to have been charged with any
3 crime and may not be fingerprinted or photographed for any reason.

4 Sec. 52. Section 36-2028, Arizona Revised Statutes, is amended to
5 read:

6 36-2028. Payment for treatment; financial ability of patient or
7 guardian

8 A. A patient WHO IS being treated by an approved treatment facility or
9 the estate of the patient, or a person WHO IS obligated to provide the cost
10 of the evaluation and treatment and having sufficient financial ability, is
11 liable to the approved treatment facility for the cost of evaluation and
12 treatment of the patient. FOR A PERSON WHO IS DETERMINED TO BE ELIGIBLE FOR
13 COVERAGE THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, FINANCIAL
14 LIABILITY SHALL BE ESTABLISHED in accordance with the ~~rates~~ RULES established
15 by the ~~division~~ ADMINISTRATION.

16 B. The ~~division, with the approval of the director,~~ ADMINISTRATION
17 shall adopt rules governing financial ability that take into consideration
18 the income, savings and other personal and real property of the person
19 required to pay as well as any support being furnished by ~~him~~ THAT PERSON to
20 any person ~~whom he may be~~ AS required by law ~~to support~~. THE RULES SHALL
21 COMPLY WITH APPLICABLE FEDERAL REQUIREMENTS FOR COST SHARING.

22 C. Each approved treatment facility shall furnish the ~~division~~
23 ADMINISTRATION with such information as it requires to enable it to establish
24 and maintain a cost reporting system of the cost of the evaluation and
25 treatment. Each approved treatment facility shall ~~insure~~ ENSURE that records
26 are maintained containing such information and in such form as the ~~division~~
27 ~~shall require~~ ADMINISTRATION REQUIRES for the purposes of this section.

28 D. The ~~division~~ ADMINISTRATION shall prepare and adopt patient fee
29 schedules to be used by approved treatment facilities for services rendered
30 to each patient WHO IS DETERMINED TO BE ELIGIBLE FOR COVERAGE THROUGH THE
31 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AND WHO IS afflicted with
32 alcoholism. In preparing ~~such~~ patient fee schedules, the ~~division~~
33 ADMINISTRATION shall take into account the existing charges for available
34 services. The ~~division~~ ADMINISTRATION is not prohibited from including the
35 amount of expenditures for capital outlay in its determination of the fee
36 schedules.

37 Sec. 53. Section 36-2029, Arizona Revised Statutes, is amended to
38 read:

39 36-2029. Funding of facilities; contracts; limitations

40 A. The ~~division~~ ADMINISTRATION may use municipal, county, state and
41 federal monies appropriated or otherwise available for the evaluation and
42 treatment of alcoholics to assist in the establishment and maintenance of
43 approved public or private treatment facilities. ~~Such~~ THE monies may be
44 expended for professional fees for services at an approved treatment facility
45 or in contract for advancement or reimbursement of services provided at an

1 approved treatment facility or any other appropriate manner and may be used
2 for any purpose necessary to provide evaluation and treatment at approved
3 treatment facilities. These monies may not be used for ~~division~~ salaries or
4 any other purpose within the ~~division~~ ADMINISTRATION but may be used
5 for consultation ~~to the division~~ SERVICES in the interest of approved
6 treatment facilities.

7 B. A public or private treatment facility providing or intending to
8 provide evaluation and treatment and desiring to contract with the ~~division~~
9 ADMINISTRATION for the furnishing of such services shall submit a program,
10 plan and budget to the ~~division~~ ADMINISTRATION on the forms and in the manner
11 required by the ~~division~~ ADMINISTRATION. If such A facility is approved, the
12 ~~division~~ ADMINISTRATION may contract with the facility for services as
13 required and ~~upon~~ ON such terms and conditions as the ~~division shall require~~
14 ADMINISTRATION REQUIRES.

15 C. Each approved treatment facility shall provide the ~~division~~
16 ADMINISTRATION with a record of all federal, state, county, city and private
17 monies received for the previous year and an estimate of monies to be
18 received by the facility for the following year.

19 D. An approved private or public treatment facility providing
20 evaluation and treatment may receive state funding ~~upon~~ ON complying with the
21 rules ~~and regulations~~ established by the ~~division~~ DEPARTMENT. Any such
22 facility is not eligible for state funding until approved by the ~~deputy~~
23 ~~director~~ ADMINISTRATION.

24 E. ~~The provisions of~~ This article ~~shall not be construed to~~ DOES NOT
25 place ~~upon~~ ON the ~~division~~ ADMINISTRATION or the state any liability for the
26 well-being and care of alcoholics or persons incapacitated by alcohol in a
27 public or private treatment facility or the responsibility for funding such
28 programs beyond the limits of legislative appropriation therefor.

29 Sec. 54. Section 36-2051, Arizona Revised Statutes, is amended to
30 read:

31 36-2051. Definition of federal act

32 In this article, ~~unless the context otherwise requires:~~

33 ~~1. "Deputy director" means the deputy director of the division of~~
34 ~~behavioral health in the department of health services.~~

35 ~~2. "Division" means the division of behavioral health in the~~
36 ~~department of health services.~~

37 ~~3.~~ "federal act" means the drug abuse office and treatment act of 1972
38 and regulations adopted ~~thereunder~~ PURSUANT TO THAT ACT.

39 Sec. 55. Section 36-2052, Arizona Revised Statutes, is amended to
40 read:

41 36-2052. Designation of state agency

42 The ~~division~~ ADMINISTRATION is designated as the state authority for
43 the purposes of exercising authority under the federal act.

1 Sec. 56. Section 36-2901, Arizona Revised Statutes, is amended to
2 read:

3 36-2901. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Administration" means the Arizona health care cost containment
6 system administration.

7 2. "Administrator" means the administrator of the Arizona health care
8 cost containment system.

9 3. "Contractor" means a person or entity that has a prepaid capitated
10 contract with the administration pursuant to section 36-2904 OR CHAPTER 34 OF
11 THIS TITLE to provide health care to members under this article OR PERSONS
12 UNDER CHAPTER 34 OF THIS TITLE either directly or through subcontracts with
13 providers.

14 4. "Department" means the department of economic security.

15 5. "Director" means the director of the Arizona health care cost
16 containment system administration.

17 6. "Eligible person" means any person who is:

18 (a) Any of the following:

19 (i) Defined as mandatorily or optionally eligible pursuant to title
20 XIX of the social security act as authorized by the state plan.

21 (ii) Defined in title XIX of the social security act as an eligible
22 pregnant woman with a family income that does not exceed one hundred fifty
23 ~~per-cent~~ PERCENT of the federal poverty guidelines, as a child under the age
24 of six years and whose family income does not exceed one hundred thirty-three
25 ~~per-cent~~ PERCENT of the federal poverty guidelines or as children who have
26 not attained nineteen years of age and whose family income does not exceed
27 one hundred thirty-three ~~per-cent~~ PERCENT of the federal poverty guidelines.

28 (iii) Under twenty-six years of age and who was in the custody of the
29 department of child safety pursuant to title 8, chapter 4 when the person
30 became eighteen years of age.

31 (iv) Defined as eligible pursuant to section 36-2901.01.

32 (v) Defined as eligible pursuant to section 36-2901.04.

33 (vi) Defined as eligible pursuant to section 36-2901.07.

34 (b) A full-time officer or employee of this state or of a city, town
35 or school district of this state or other person who is eligible for
36 hospitalization and medical care under title 38, chapter 4, article 4.

37 (c) A full-time officer or employee of any county in this state or
38 other persons authorized by the county to participate in county medical care
39 and hospitalization programs if the county in which such officer or employee
40 is employed has authorized participation in the system by resolution of the
41 county board of supervisors.

42 (d) An employee of a business within this state.

43 (e) A dependent of an officer or employee who is participating in the
44 system.

1 (f) Not enrolled in the Arizona long-term care system pursuant to
2 article 2 of this chapter.

3 (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and
4 (XVI) of title XIX of the social security act and who meets the income
5 requirements of section 36-2929.

6 7. "Graduate medical education" means a program, including an approved
7 fellowship, that prepares a physician for the independent practice of
8 medicine by providing didactic and clinical education in a medical discipline
9 to a medical student who has completed a recognized undergraduate medical
10 education program.

11 8. "Malice" means evil intent and outrageous, oppressive or
12 intolerable conduct that creates a substantial risk of tremendous harm to
13 others.

14 9. "Member" means an eligible person who enrolls in the system.

15 10. "Modified adjusted gross income" has the same meaning prescribed in
16 42 United States Code section 1396a(e)(14).

17 11. "Noncontracting provider" means a person who provides health care
18 to members pursuant to this article but not pursuant to a subcontract with a
19 contractor.

20 12. "Physician" means a person licensed pursuant to title 32, chapter
21 13 or 17.

22 13. "Prepaid capitated" means a mode of payment by which a health care
23 contractor directly delivers health care services for the duration of a
24 contract to a maximum specified number of members based on a fixed rate per
25 member notwithstanding:

26 (a) The actual number of members who receive care from the contractor.

27 (b) The amount of health care services provided to any member.

28 14. "Primary care physician" means a physician who is a family
29 practitioner, general practitioner, pediatrician, general internist, or
30 obstetrician or gynecologist.

31 15. "Primary care practitioner" means a nurse practitioner certified
32 pursuant to title 32, chapter 15 or a physician assistant certified pursuant
33 to title 32, chapter 25. This paragraph does not expand the scope of
34 practice for nurse practitioners as defined pursuant to title 32, chapter 15,
35 or for physician assistants as defined pursuant to title 32, chapter 25.

36 16. "REGIONAL BEHAVIORAL HEALTH AUTHORITY" HAS THE SAME MEANING
37 PRESCRIBED IN SECTION 36-3401.

38 ~~16.~~ 17. "Section 1115 waiver" means the research and demonstration
39 waiver granted by the United States department of health and human services.

40 ~~17.~~ 18. "Special health care district" means a special health care
41 district organized pursuant to title 48, chapter 31.

42 ~~18.~~ 19. "State plan" has the same meaning prescribed in section
43 36-2931.

44 ~~19.~~ 20. "System" means the Arizona health care cost containment system
45 established by this article.

1 Sec. 57. Section 36-2907, Arizona Revised Statutes, is amended to
2 read:

3 36-2907. Covered health and medical services; modifications;
4 related delivery of service requirements; definition

5 A. Subject to the limitations and exclusions specified in this
6 section, contractors shall provide the following medically necessary health
7 and medical services:

8 1. Inpatient hospital services that are ordinarily furnished by a
9 hospital for the care and treatment of inpatients and that are provided under
10 the direction of a physician or a primary care practitioner. For the
11 purposes of this section, inpatient hospital services exclude services in an
12 institution for tuberculosis or mental diseases unless authorized under an
13 approved section 1115 waiver.

14 2. Outpatient health services that are ordinarily provided in
15 hospitals, clinics, offices and other health care facilities by licensed
16 health care providers. Outpatient health services include services provided
17 by or under the direction of a physician or a primary care practitioner.

18 3. Other laboratory and x-ray services ordered by a physician or a
19 primary care practitioner.

20 4. Medications that are ordered on prescription by a physician or a
21 dentist licensed pursuant to title 32, chapter 11. Persons who are dually
22 eligible for title XVIII and title XIX services must obtain available
23 medications through a medicare licensed or certified medicare advantage
24 prescription drug plan, a medicare prescription drug plan or any other entity
25 authorized by medicare to provide a medicare part D prescription drug
26 benefit.

27 5. Medical supplies, durable medical equipment, insulin pumps and
28 prosthetic devices ordered by a physician or a primary care practitioner.
29 Suppliers of durable medical equipment shall provide the administration with
30 complete information about the identity of each person who has an ownership
31 or controlling interest in their business and shall comply with federal
32 bonding requirements in a manner prescribed by the administration.

33 6. For persons who are at least twenty-one years of age, treatment of
34 medical conditions of the eye, excluding eye examinations for prescriptive
35 lenses and the provision of prescriptive lenses.

36 7. Early and periodic health screening and diagnostic services as
37 required by section 1905(r) of title XIX of the social security act for
38 members who are under twenty-one years of age.

39 8. Family planning services that do not include abortion or abortion
40 counseling. If a contractor elects not to provide family planning services,
41 this election does not disqualify the contractor from delivering all other
42 covered health and medical services under this chapter. In that event, the
43 administration may contract directly with another contractor, including an
44 outpatient surgical center or a noncontracting provider, to deliver family

1 planning services to a member who is enrolled with the contractor that elects
2 not to provide family planning services.

3 9. Podiatry services ordered by a primary care physician or primary
4 care practitioner.

5 10. Nonexperimental transplants approved for title XIX reimbursement.

6 11. Ambulance and nonambulance transportation, except as provided in
7 subsection G of this section.

8 12. Hospice care.

9 B. The limitations and exclusions for health and medical services
10 provided under this section are as follows:

11 1. Circumcision of newborn males is not a covered health and medical
12 service.

13 2. For eligible persons who are at least twenty-one years of age:

14 (a) Outpatient health services do not include occupational therapy or
15 speech therapy.

16 (b) Prosthetic devices do not include hearing aids, dentures,
17 bone-anchored hearing aids or cochlear implants. Prosthetic devices, except
18 prosthetic implants, may be limited to twelve thousand five hundred dollars
19 per contract year.

20 (c) Percussive vests and orthotics are not covered health and medical
21 services.

22 (d) Durable medical equipment is limited to items covered by medicare.

23 (e) Podiatry services do not include services performed by a
24 podiatrist.

25 (f) Nonexperimental transplants do not include pancreas-only
26 transplants.

27 (g) Bariatric surgery procedures, including laparoscopic and open
28 gastric bypass and restrictive procedures, are not covered health and medical
29 services.

30 C. The system shall pay noncontracting providers only for health and
31 medical services as prescribed in subsection A of this section and as
32 prescribed by rule.

33 D. The director shall adopt rules necessary to limit, to the extent
34 possible, the scope, duration and amount of services, including maximum
35 limitations for inpatient services that are consistent with federal
36 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.
37 344; 42 United States Code section 1396 (1980)). To the extent possible and
38 practicable, these rules shall provide for the prior approval of medically
39 necessary services provided pursuant to this chapter.

40 E. The director shall make available home health services in lieu of
41 hospitalization pursuant to contracts awarded under this article. For the
42 purposes of this subsection, "home health services" means the provision of
43 nursing services, home health aide services or medical supplies, equipment
44 and appliances that are provided on a part-time or intermittent basis by a
45 licensed home health agency within a member's residence based on the orders

1 of a physician or a primary care practitioner. Home health agencies shall
2 comply with the federal bonding requirements in a manner prescribed by the
3 administration.

4 F. The director shall adopt rules for the coverage of behavioral
5 health services for persons who are eligible under section 36-2901, paragraph
6 6, subdivision (a). ~~The administration shall contract with the department of~~
7 ~~health services for the delivery of all medically necessary behavioral health~~
8 ~~services to persons who are eligible under rules adopted pursuant to this~~
9 ~~subsection. The division of behavioral health in the department of health~~
10 ~~services~~ THE ADMINISTRATION ACTING THROUGH THE REGIONAL BEHAVIORAL HEALTH
11 AUTHORITIES shall establish a diagnostic and evaluation program to which
12 other state agencies shall refer children who are not already enrolled
13 pursuant to this chapter and who may be in need of behavioral health
14 services. In addition to an evaluation, the ~~division of behavioral health~~
15 ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall
16 also identify children who may be eligible under section 36-2901, paragraph
17 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the
18 children to the appropriate agency responsible for making the final
19 eligibility determination.

20 G. The director shall adopt rules for the provision of transportation
21 services and rules providing for copayment by members for transportation for
22 other than emergency purposes. Subject to approval by the centers for
23 medicare and medicaid services, nonemergency medical transportation shall not
24 be provided except for stretcher vans and ambulance transportation. Prior
25 authorization is required for transportation by stretcher van and for
26 medically necessary ambulance transportation initiated pursuant to a
27 physician's direction. Prior authorization is not required for medically
28 necessary ambulance transportation services rendered to members or eligible
29 persons initiated by dialing telephone number 911 or other designated
30 emergency response systems.

31 H. The director may adopt rules to allow the administration, at the
32 director's discretion, to use a second opinion procedure under which surgery
33 may not be eligible for coverage pursuant to this chapter without
34 documentation as to need by at least two physicians or primary care
35 practitioners.

36 I. If the director does not receive bids within the amounts budgeted
37 or if at any time the amount remaining in the Arizona health care cost
38 containment system fund is insufficient to pay for full contract services for
39 the remainder of the contract term, the administration, on notification to
40 system contractors at least thirty days in advance, may modify the list of
41 services required under subsection A of this section for persons defined as
42 eligible other than those persons defined pursuant to section 36-2901,
43 paragraph 6, subdivision (a). The director may also suspend services or may
44 limit categories of expense for services defined as optional pursuant to
45 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United

1 States Code section 1396 (1980)) for persons defined pursuant to section
2 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not
3 apply to the continuity of care for persons already receiving these services.

4 J. Additional, reduced or modified hospitalization and medical care
5 benefits may be provided under the system to enrolled members who are
6 eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d)
7 or (e).

8 K. All health and medical services provided under this article shall
9 be provided in the geographic service area of the member, except:

10 1. Emergency services and specialty services provided pursuant to
11 section 36-2908.

12 2. That the director may permit the delivery of health and medical
13 services in other than the geographic service area in this state or in an
14 adjoining state if the director determines that medical practice patterns
15 justify the delivery of services or a net reduction in transportation costs
16 can reasonably be expected. Notwithstanding the definition of physician as
17 prescribed in section 36-2901, if services are procured from a physician or
18 primary care practitioner in an adjoining state, the physician or primary
19 care practitioner shall be licensed to practice in that state pursuant to
20 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or
21 25 and shall complete a provider agreement for this state.

22 L. Covered outpatient services shall be subcontracted by a primary
23 care physician or primary care practitioner to other licensed health care
24 providers to the extent practicable for purposes including, but not limited
25 to, making health care services available to underserved areas, reducing
26 costs of providing medical care and reducing transportation costs.

27 M. The director shall adopt rules that prescribe the coordination of
28 medical care for persons who are eligible for system services. The rules
29 shall include provisions for the transfer of patients, the transfer of
30 medical records and the initiation of medical care.

31 N. For the purposes of this section, "ambulance" has the same meaning
32 prescribed in section 36-2201.

33 Sec. 58. Section 36-2989, Arizona Revised Statutes, is amended to
34 read:

35 36-2989. Covered health and medical services; modifications;
36 related delivery of service requirements

37 A. Except as provided in this section, health and medical services
38 prescribed in section 36-2907 are covered services and include:

39 1. Inpatient hospital services that are ordinarily furnished by a
40 hospital for the care and treatment of inpatients, that are medically
41 necessary and that are provided under the direction of a physician or a
42 primary care practitioner. For the purposes of this paragraph, inpatient
43 hospital services exclude services in an institution for tuberculosis or
44 mental diseases unless authorized by federal law.

1 2. Outpatient health services that are medically necessary and
2 ordinarily provided in hospitals, clinics, offices and other health care
3 facilities by licensed health care providers. For the purposes of this
4 paragraph, "outpatient health services" includes services provided by or
5 under the direction of a physician or a primary care practitioner.

6 3. Other laboratory and x-ray services ordered by a physician or a
7 primary care practitioner.

8 4. Medications that are medically necessary and ordered on
9 prescription by a physician, a primary care practitioner or a dentist
10 licensed pursuant to title 32, chapter 11.

11 5. Medical supplies, equipment and prosthetic devices.

12 6. Treatment of medical conditions of the eye, including eye
13 examinations for prescriptive lenses and the provision of prescriptive lenses
14 for members.

15 7. Medically necessary dental services.

16 8. Well child services, immunizations and prevention services.

17 9. Family planning services that do not include abortion or abortion
18 counseling. If a contractor elects not to provide family planning services,
19 this election does not disqualify the contractor from delivering all other
20 covered health and medical services under this article. In that event, the
21 administration may contract directly with another contractor, including an
22 outpatient surgical center or a noncontracting provider, to deliver family
23 planning services to a member who is enrolled with a contractor who elects
24 not to provide family planning services.

25 10. Podiatry services that are performed by a podiatrist licensed
26 pursuant to title 32, chapter 7 and that are ordered by a primary care
27 physician or primary care practitioner.

28 11. Medically necessary pancreas, heart, liver, kidney, cornea, lung
29 and heart-lung transplants and autologous and allogeneic bone marrow
30 transplants and immunosuppressant medications for these transplants ordered
31 on prescription by a physician licensed pursuant to title 32, chapter 13
32 or 17.

33 12. Medically necessary emergency and nonemergency transportation.

34 13. Inpatient and outpatient behavioral health services that are the
35 same as the least restrictive health benefits coverage plan for behavioral
36 health services that are offered through a health care services organization
37 for state employees under section 38-651.

38 14. Hospice care.

39 B. The administration shall pay noncontracting providers only for
40 health and medical services as prescribed in subsection A of this section.

41 C. To the extent possible and practicable, the administration and
42 contractors shall provide for the prior approval of medically necessary
43 services provided pursuant to this article.

44 D. The director shall make available home health services in lieu of
45 hospitalization pursuant to contracts awarded under this article.

1 E. Behavioral health services shall be provided to members through the
2 administration's ~~intergovernmental agreement with the division of behavioral~~
3 ~~health in the department of health services~~ CONTRACTORS. The ~~division of~~
4 ~~behavioral health in the department of health services~~ ADMINISTRATION ACTING
5 THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES AS DEFINED IN SECTION 36-3401
6 shall use its established diagnostic and evaluation program for referrals of
7 children who are not already enrolled pursuant to this article and who may be
8 in need of behavioral health services. In addition to an evaluation, the
9 ~~division of behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL
10 BEHAVIORAL HEALTH AUTHORITIES AS DEFINED IN SECTION 36-3401 shall also
11 identify children who may be eligible under section 36-2901, paragraph 6,
12 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children
13 to the appropriate agency responsible for making the final eligibility
14 determination.

15 F. The director shall adopt rules for the provision of transportation
16 services for members. Prior authorization is not required for medically
17 necessary ambulance transportation services rendered to members initiated by
18 dialing telephone number 911 or other designated emergency response systems.

19 G. The director may adopt rules to allow the administration to use a
20 second opinion procedure under which surgery may not be eligible for coverage
21 pursuant to this article without documentation as to need by at least two
22 physicians or primary care practitioners.

23 H. All health and medical services provided under this article shall
24 be provided in the geographic service area of the member, except:

25 1. Emergency services and specialty services.

26 2. The director may permit the delivery of health and medical services
27 in other than the geographic service area in this state or in an adjoining
28 state if it is determined that medical practice patterns justify the delivery
29 of services or a net reduction in transportation costs can reasonably be
30 expected. Notwithstanding section 36-2981, paragraph 8 or 11, if services
31 are procured from a physician or primary care practitioner in an adjoining
32 state, the physician or primary care practitioner shall be licensed to
33 practice in that state pursuant to licensing statutes in that state that are
34 similar to title 32, chapter 13, 15, 17 or 25.

35 I. Covered outpatient services shall be subcontracted by a primary
36 care physician or primary care practitioner to other licensed health care
37 providers to the extent practicable for purposes of making health care
38 services available to underserved areas, reducing costs of providing medical
39 care and reducing transportation costs.

40 J. The director shall adopt rules that prescribe the coordination of
41 medical care for members and that include a mechanism to transfer members and
42 medical records and initiate medical care.

43 K. The director shall adopt rules for the reimbursement of specialty
44 services provided to the member if authorized by the member's primary care
45 physician or primary care practitioner.

1 Sec. 59. Heading change

2 The chapter heading of title 36, chapter 34, Arizona Revised Statutes,
3 is changed from "DIVISION OF BEHAVIORAL HEALTH" to "BEHAVIORAL HEALTH
4 SERVICES".

5 Sec. 60. Section 36-3401, Arizona Revised Statutes, is amended to
6 read:

7 36-3401. Definitions

8 In this chapter, unless the context otherwise requires:

9 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
10 SYSTEM ADMINISTRATION.

11 ~~1-~~ 2. "Advisory council" means the Arizona state advisory council on
12 the seriously mentally ill.

13 ~~2-~~ 3. "Children" means persons who are under the age of nineteen
14 years or persons who are under the age of twenty-two years and enrolled in an
15 educational facility.

16 ~~3-~~ 4. "Clean claim" means a claim that can be processed without
17 obtaining additional information from the service provider or from a third
18 party. Clean claim does not include claims under investigation for fraud or
19 abuse or claims under review for medical necessity.

20 ~~4-~~ "Department" means the department of health services.

21 ~~5-~~ "Deputy director" means the deputy director of the division of
22 behavioral health in the department of health services.

23 ~~6-~~ 5. "Director" means the director of the ~~department of health~~
24 ~~services~~ ADMINISTRATION.

25 ~~7-~~ "Division" means the division of behavioral health in the
26 department of health services.

27 ~~8-~~ 6. "Regional behavioral health authority" means an organization
28 under contract with the ~~department~~ ADMINISTRATION to coordinate the delivery
29 of mental health services in a geographically specific service area of the
30 state for eligible persons.

31 ~~9-~~ 7. "Service provider" means an organization or mental health
32 professional that meets the criteria established by the ~~department~~
33 ADMINISTRATION and has a contract with the ~~department~~ ADMINISTRATION or a
34 regional behavioral health authority.

35 Sec. 61. Repeal

36 Section ~~36-3402~~, Arizona Revised Statutes, is repealed.

37 Sec. 62. Section 36-3403, Arizona Revised Statutes, is amended to
38 read:

39 36-3403. Powers and duties of the director; study; capitation
40 rates

41 A. IN ADDITION TO THE POWERS AND DUTIES PRESCRIBED IN CHAPTER 29 OF
42 THIS TITLE, IN CARRYING OUT THE DUTIES OF THIS CHAPTER, the ~~deputy~~ director
43 may, ~~on approval of the director~~:

1 1. Employ professional, secretarial and clerical staff as are
2 determined necessary by the director to carry out the functions and duties of
3 the ~~division~~ ADMINISTRATION, subject to legislative appropriation.

4 2. Contract for the services of consultants and other persons ~~which~~
5 THAT are reasonably necessary to enable the ~~division~~ ADMINISTRATION to carry
6 out its functions and duties, subject to legislative appropriation.

7 3. Contract and incur obligations ~~which~~ THAT are reasonably necessary
8 within the general scope of the ~~division~~ ADMINISTRATION.

9 4. Adopt rules ~~which~~ THAT are necessary to carry out the requirements
10 of the ~~division~~ ADMINISTRATION.

11 5. Contract or enter into intergovernmental agreements with other
12 public and private nonprofit agencies and entities.

13 6. Use monies, facilities or services to provide matching
14 contributions under federal or other programs ~~which~~ THAT further the
15 objectives and programs of the ~~division~~ ADMINISTRATION.

16 7. Accept gifts, grants, matching monies or direct payments from
17 public or private agencies or private persons and enterprises for the conduct
18 of programs ~~which~~ THAT are consistent with the general purposes and
19 objectives of the ~~division~~ ADMINISTRATION.

20 ~~8. Lease at fair market value real property currently occupied by the~~
21 ~~southern Arizona mental health center for the purposes of operating a private~~
22 ~~nonprofit behavioral health care facility. Monies collected from the lease~~
23 ~~of the real property shall be deposited into the building renewal fund~~
24 ~~established pursuant to section 36-545.09.~~

25 B. The ~~deputy~~ director shall administer:

26 1. Unified mental health programs, ~~to include~~ EXCLUDING the functions
27 of the state hospital ~~and~~ BUT INCLUDING community mental health.

28 2. Addictive behavior programs to include alcohol and drug abuse.

29 C. Notwithstanding any other law, the ~~deputy~~ director may waive or
30 reduce the requirements for local match.

31 ~~D. The superintendent of the Arizona state hospital shall be appointed~~
32 ~~by the deputy director, subject to the approval of the director, and shall~~
33 ~~report directly to the deputy director.~~

34 D. EXCEPT AS OTHERWISE REQUIRED BY THIS CHAPTER, THE DIRECTOR SHALL
35 CARRY OUT THE DUTIES OF THIS CHAPTER SUBJECT TO AND CONSISTENT WITH CHAPTER
36 29 OF THIS TITLE.

37 E. The ~~department~~ ADMINISTRATION shall contract with an independent
38 consulting firm for an annual study of the adequacy and appropriateness of
39 title XIX reimbursement rates to providers of behavioral health services.
40 The ~~department~~ ADMINISTRATION may require, ~~and the department's contracted~~
41 ~~providers~~ THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES AND SERVICE PROVIDERS
42 shall provide, ~~financial data~~ to the ~~department~~ ADMINISTRATION FINANCIAL DATA
43 in the format prescribed by the ~~department~~ ADMINISTRATION to assist in the
44 study. A complete study of reimbursement rates shall be completed ~~no less~~
45 ~~than~~ AT LEAST once every five years. The ~~department~~ ADMINISTRATION shall

1 provide the report to the joint legislative budget committee ~~and the Arizona~~
2 ~~health care cost containment system administration by October 1, 2002 and by~~
3 ~~ON OR BEFORE~~ October 1 of each year ~~thereafter~~. ~~The department shall include~~
4 ~~the results of the study in its yearly capitation request to the Arizona~~
5 ~~health care cost containment system administration~~. If results of the study
6 are not completely incorporated into the capitation rate, the ~~Arizona health~~
7 ~~care cost containment system~~ administration shall provide a report to the
8 joint legislative budget committee within thirty days of setting the final
9 capitation rate, including reasons for differences between the rate and the
10 study.

11 F. Capitation rate adjustments shall be limited to utilization of
12 existing services and inflation unless policy changes, including creation or
13 expansion of programs, have been approved by the legislature or are
14 specifically required by federal law or court mandate.

15 Sec. 63. Section 36-3404, Arizona Revised Statutes, is amended to
16 read:

17 36-3404. Administration budget for behavioral health; funds

18 A. The ~~department~~ ADMINISTRATION SHALL PRESENT A budget ~~for the~~
19 ~~division shall include~~ REQUEST THAT INCLUDES all information on THE potential
20 availability of other monies, including federal monies, ~~which~~ THAT may be
21 used in the following fiscal year to fund ~~the~~ behavioral health services
22 OTHER THAN WITH RESPECT TO THE OPERATION of the Arizona state hospital.

23 B. The budget request presented pursuant to subsection A of this
24 section shall be divided as follows:

25 1. A proposed budget for the administration of ~~the division~~ BEHAVIORAL
26 HEALTH SERVICES.

27 ~~2. A proposed budget for the Arizona state hospital, with a specific~~
28 ~~amount of the total budget estimated to be used for patients who are~~
29 ~~seriously mentally ill.~~

30 ~~3.~~ 2. A proposed budget for services for each behavioral health
31 program.

32 C. The ~~deputy~~ director shall establish funds for each behavioral
33 health program. Monies appropriated to the ~~division~~ ADMINISTRATION for these
34 programs, ~~and grants, gifts and~~ fees generated by the ~~division~~, PROVISION OF
35 THESE PROGRAMS AND GRANTS AND GIFTS TO THE ADMINISTRATION shall be maintained
36 in the appropriate fund to pay program and administrative costs. The
37 administrative costs of each program shall be separately identified in the
38 accounting records of the ~~division~~ ADMINISTRATION.

39 Sec. 64. Section 36-3405, Arizona Revised Statutes, is amended to
40 read:

41 36-3405. Annual report; reports

42 A. ~~By~~ ON OR BEFORE January 1 of each year, the director shall submit a
43 financial and programmatic report for the preceding fiscal year to the
44 governor, the speaker of the house of representatives and the president of
45 the senate.

1 B. The report required pursuant to subsection A of this section shall
2 include revenues and expenditures for ~~the division~~ BEHAVIORAL HEALTH PROGRAMS
3 and total revenues and expenditures, including specific identification of
4 administrative costs for each behavioral health program by the following
5 categories:

- 6 1. The seriously mentally ill.
- 7 2. Alcohol and drug abuse.
- 8 3. Children with severe emotional disabilities.
- 9 4. Domestic violence.

10 ~~5. The Arizona state hospital.~~

11 C. The report required pursuant to subsection A of this section shall
12 include the number of clients served by each behavioral health service.

13 D. The director shall provide a monthly report to the governor, the
14 speaker of the house of representatives and the president of the senate ~~which~~
15 THAT shall, by regional behavioral health authority, separately report title
16 XIX and nontitle XIX categories and shall include for each category the
17 number of persons served, the units of service and the amount of funding
18 provided for client services and the amount provided for regional behavioral
19 health authority administration and case management expenses.

20 Sec. 65. Section 36-3406, Arizona Revised Statutes, is amended to
21 read:

22 36-3406. Arizona state advisory council on the seriously
23 mentally ill; membership; compensation; duties

24 A. The Arizona state advisory council on the seriously mentally ill is
25 established.

26 B. The advisory council shall consist of the ~~deputy~~ director OR THE
27 DIRECTOR'S DESIGNEE and the following nine members appointed by the governor:

- 28 1. One member representing an advocacy group for the seriously
29 mentally ill.
- 30 2. One service provider.
- 31 3. One member representing a behavioral health contract agency in an
32 urban area.
- 33 4. One member representing a behavioral health contract agency in a
34 rural area.
- 35 5. One member of a county health department specializing in the
36 delivery of services to the seriously mentally ill.
- 37 6. One health care professional who works with the seriously mentally
38 ill and who is not associated with a contract agency providing services.
- 39 7. Three family members of persons who are seriously mentally ill.

40 C. The ~~deputy~~ director OR THE DIRECTOR'S DESIGNEE shall serve as
41 chairman.

42 D. The advisory council shall meet at least every three months.

43 E. Members of the advisory council are not entitled to compensation
44 but members appointed are entitled to reimbursement of expenses pursuant to
45 title 38, chapter 4, article 2.

1 F. The ~~division~~ ADMINISTRATION shall provide necessary staff services
2 to the advisory council.

3 G. The advisory council shall advise the ~~division~~ ADMINISTRATION on
4 matters relating to the seriously mentally ill.

5 H. Appointed members of the advisory council shall serve staggered
6 three-year terms.

7 Sec. 66. Section 36-3407, Arizona Revised Statutes, is amended to
8 read:

9 36-3407. Services; contract

10 The ~~division~~ ADMINISTRATION shall contract for the provision of the
11 following services relating to the seriously mentally ill:

12 1. Community education to increase public awareness of the needs of
13 persons experiencing behavioral health problems.

14 2. Coordinated screening and intake.

15 3. A coordinated service delivery system.

16 4. Coordinated case management and individualized treatment planning
17 for each client.

18 5. Ongoing family participation in the planning for and selection of
19 continuum of care services.

20 6. A comprehensive continuum of care services, as appropriate for each
21 client, ~~which shall include but not be limited to~~ THAT INCLUDES the
22 following:

23 (a) Home-based services.

24 (b) Prevention and early intervention.

25 (c) Psychiatric evaluation and consultation.

26 (d) Ancillary support services.

27 (e) Crisis intervention, including short-term and mobile crisis
28 stabilization.

29 (f) Outpatient counseling.

30 (g) Residential treatment services.

31 (h) Case management.

32 (i) Partial care services.

33 (j) Secure residential treatment services.

34 (k) Residential treatment services for clients discharged from the
35 Arizona state hospital.

36 (l) Hospitalization services.

37 (m) Psychotropic medication services.

38 (n) Independent living services.

39 (o) Detoxification services.

40 (p) Respite care.

41 (q) Vocational rehabilitation.

42 (r) Transportation.

43 (s) Socialization and recreation.

1 Sec. 67. Section 36-3408, Arizona Revised Statutes, is amended to
2 read:

3 36-3408. Eligibility for behavioral health service system:
4 screening process; required information

5 A. Any person or the person's parent or legal guardian who requests
6 behavioral health services pursuant to this chapter shall comply with a
7 preliminary financial screening and eligibility process developed by the
8 ~~department of health services in coordination with the~~ Arizona health care
9 cost containment system administration and administered at the initial intake
10 level. A person who receives behavioral health services pursuant to this
11 chapter and who has not been determined eligible for title XVIII and for the
12 medicare part D prescription drug benefit, title XIX or title XXI services
13 shall comply annually with the eligibility determination process. If the
14 results indicate that the person may be eligible for title XVIII and for the
15 medicare part D prescription drug benefit, title XIX or title XXI, in order
16 to continue to receive services pursuant to this chapter, the applicant shall
17 submit a completed application within ten working days to the social security
18 administration, the department of economic security or the Arizona health
19 care cost containment system administration, which shall determine the
20 applicant's eligibility pursuant to title XVIII and for the medicare part D
21 prescription drug benefit, section 36-2901, paragraph 6, subdivision (a),
22 section 36-2931, paragraph 5 or section 36-2981, paragraph 6 for health and
23 medical or long-term care services pursuant to chapter 29 of this title. The
24 applicant shall cooperate fully with the eligibility determination process.
25 If the person is in need of emergency services provided pursuant to this
26 chapter, the person may begin to receive these services immediately provided
27 that within five days from the date of service a financial screening is
28 initiated.

29 B. Applicants who refuse to cooperate in the financial screening and
30 eligibility process are not eligible for services pursuant to this chapter.
31 A form explaining loss of benefits due to refusal to cooperate shall be
32 signed by the applicant. Refusal to cooperate shall not be construed to mean
33 the applicant's inability to obtain documentation required for eligibility
34 determination. The department of economic security ~~and the Arizona health~~
35 ~~care cost containment system administration~~ shall promptly inform the
36 ~~department of health services~~ ADMINISTRATION of the applications that are
37 denied based on an applicant's failure to cooperate with the eligibility
38 determination process and, on request, of applicants who do not submit an
39 application as required by this section.

40 C. The department of economic security, in coordination with the
41 ~~department of health services~~ ADMINISTRATION, shall provide on-site
42 eligibility determinations at appropriate program locations subject to
43 legislative appropriation.

1 D. This section only applies to persons who receive services that are
2 provided pursuant to this section and that are paid for in whole or in part
3 with state ~~funds~~ MONIES.

4 E. A person who requests treatment services under this chapter shall
5 provide personally identifying information required by the ~~department of~~
6 ~~health services~~ ADMINISTRATION.

7 F. Except as otherwise provided by law, this section and cooperation
8 with the eligibility determination process do not entitle any person to any
9 particular services that are subject to legislative appropriation.

10 Sec. 68. Section 36-3409, Arizona Revised Statutes, is amended to
11 read:

12 36-3409. Fee requirements; fee schedules

13 A. Clients WHO ARE eligible for ~~non-title~~ NONTITLE XIX services from
14 the ~~department~~ ADMINISTRATION shall be required to pay fees for services.

15 B. The ~~department~~ ADMINISTRATION shall establish a schedule for fees
16 charged for services provided by public or private agencies receiving state
17 ~~funds~~ MONIES pursuant to this article ~~which shall include, but not be limited~~
18 ~~to,~~ THAT INCLUDES a sliding fee schedule based ~~upon~~ ON the ability of the
19 client to pay for part or the total cost for services.

20 Sec. 69. Section 36-3410, Arizona Revised Statutes, is amended to
21 read:

22 36-3410. Regional behavioral health authorities; contracts;
23 monthly summaries; inspection; copying fee;
24 children's behavioral health and seriously mentally
25 ill services

26 A. If the ~~department~~ ADMINISTRATION contracts with behavioral health
27 contractors ~~which~~ THAT would act as regional behavioral health authorities or
28 directly with a service provider for behavioral health services, the
29 ~~department~~ ADMINISTRATION and each behavioral health contractor or service
30 provider shall prepare and make available monthly summary statements, in a
31 format prescribed by the ~~department~~ ADMINISTRATION, that separately detail by
32 title XIX and nontitle XIX and by service category and service type, as
33 defined by contract with the ~~department~~ ADMINISTRATION, the number of clients
34 served, the units of service provided and the state and federal monies
35 distributed through the ~~department~~ ADMINISTRATION to each regional behavioral
36 health authority or direct contract service provider and the amounts
37 distributed by each regional behavioral health authority or direct contract
38 service provider to ~~their~~ ITS subcontractors. The director may require
39 additional information in the monthly statement ~~which~~ THAT the director
40 determines to be critical for proper regulation and oversight of the regional
41 behavioral health authority or the direct contract service provider.

42 B. For services provided directly by a regional behavioral health
43 authority, the maximum reimbursement to that regional behavioral health
44 authority shall be thirty ~~per cent~~ PERCENT above the Arizona health care cost
45 containment system fee for service rate for the particular service rendered.

1 C. Except as provided in subsections D and E of this section,
2 behavioral health contractors under contract with the ~~department~~
3 ~~ADMINISTRATION~~ to act as regional behavioral health authorities may perform
4 only managed care functions. Regional behavioral health authorities and
5 their subsidiaries shall not deliver behavioral health services directly to
6 clients. ~~The prohibition on regional behavioral health authorities and their~~
7 ~~subsidiaries delivering behavioral health services directly to clients shall~~
8 ~~be fully implemented by September 1, 2009.~~

9 D. If a direct services behavioral health provider experiences
10 contract performance failure, the regional behavioral health authority, after
11 receiving approval from the ~~department~~ ADMINISTRATION, may provide direct
12 care services for only as long as necessary to assure ENSURE delivery of
13 uninterrupted care to clients and either:

14 1. Accomplish the orderly transition of those members to a new
15 provider or other existing providers.

16 2. Until the provider in question reorganizes or otherwise corrects
17 the contract performance failure.

18 E. Subsection C of this section does not apply to a regional
19 behavioral health authority operated by a federally recognized Indian tribe.

20 F. In the contracts specified under subsection A of this section, the
21 ~~department~~ ADMINISTRATION may include a provision to charge, PAYABLE TO THE
22 DEPARTMENT OF HEALTH SERVICES, for services provided at the state
23 hospital. The charges are only for clients on whose behalf the contractor
24 has been paid by the ~~department~~ ADMINISTRATION.

25 G. The summaries and the contracts on which they are based are open to
26 public inspection. The ~~department~~ ADMINISTRATION and each regional
27 behavioral health authority or direct contract service provider shall make
28 the summaries available for inspection and copying at the office of each
29 regional behavioral health authority or direct contract service provider and
30 at the ~~department~~ ADMINISTRATION.

31 H. The ~~department~~ ADMINISTRATION and a regional behavioral health
32 authority or direct contract service provider shall charge a copying fee
33 ~~which~~ THAT is not in excess of the actual cost of reproduction or the amount
34 charged by the secretary of state pursuant to section 41-126, whichever is
35 less.

36 I. Copying fees received by the ~~department~~ ADMINISTRATION, pursuant to
37 subsection H of this section, shall be placed in the ~~state general~~ ARIZONA
38 HEALTH CARE COST CONTAINMENT SYSTEM fund ESTABLISHED BY SECTION 36-2913.

39 J. Monies appropriated ~~for fiscal year 2001-2002 and~~ each fiscal year
40 ~~thereafter~~ for children's behavioral health services shall be spent on
41 services only as prescribed by the appropriation and may not be used for any
42 other purpose.

43 K. Monies appropriated ~~for fiscal year 2007-2008 and~~ each fiscal year
44 ~~thereafter~~ for seriously mentally ill services shall be spent on services

1 only as prescribed by the appropriation and shall not be used for any other
2 purpose.

3 Sec. 70. Section 36-3411, Arizona Revised Statutes, is amended to
4 read:

5 36-3411. Behavioral health services: timely reimbursement:
6 penalties

7 A. The ~~division~~ ADMINISTRATION shall ensure that behavioral health
8 service providers are reimbursed within ninety days after the service
9 provider submits a clean claim to a regional behavioral health authority.

10 B. Any contract issued by or on behalf of the ~~division~~ ADMINISTRATION
11 for the provision of behavioral health services shall include language
12 outlining provisions for penalties for noncompliance with contract
13 requirements.

14 C. If the regional behavioral health authority does not reimburse a
15 provider as required by this section, the director shall subject the regional
16 behavioral health authority to the penalty provisions prescribed in the
17 contract, which shall not exceed the interest charges prescribed in section
18 44-1201. The director shall impose any financial penalties levied on the
19 regional behavioral health authority through a reduction in the amount of
20 ~~funds~~ MONIES payable to the regional behavioral health authority for
21 administrative expenses.

22 D. The ninety-day deadline imposed by this section is suspended while
23 a formal grievance regarding the legitimacy of a claim is pending.

24 E. The ~~department~~ ADMINISTRATION or a regional behavioral health
25 authority shall not pay claims for covered services that are initially
26 submitted more than nine months after the date of the services for which
27 payment is claimed or that are submitted as clean claims more than twelve
28 months after the date of service for which payment is claimed. A person WHO
29 IS dissatisfied with the denial of a claim by the ~~department~~ ADMINISTRATION
30 or by the regional behavioral health authority has twelve months from the
31 date of the service for which payment is claimed to institute a grievance
32 against the ~~department~~ ADMINISTRATION or regional behavioral health
33 authority.

34 F. For claims paid by the ~~department~~ ADMINISTRATION, either directly
35 or through a third-party payor, the director may impose a penalty on a
36 regional behavioral health authority or a service provider who submits a
37 claim to the ~~department~~ ADMINISTRATION for payment more than one time after
38 the same claim had been previously denied by the ~~department~~ ADMINISTRATION
39 without having attempted to address the reason given for the denial. The
40 penalty imposed by the director shall not exceed the average cost incurred by
41 the ~~department~~ ADMINISTRATION for processing a claim and shall be levied on
42 the regional behavioral health authority or service provider through reducing
43 any future payment or payments until the amount of the penalty has been paid.

1 G. This section does not apply to services provided by a hospital
2 pursuant to section 36-2903.01, subsection G, or section 36-2904, subsection
3 H or I.

4 Sec. 71. Repeal

5 Section 36-3412, Arizona Revised Statutes, is repealed.

6 Sec. 72. Title 36, chapter 34, article 1, Arizona Revised Statutes, is
7 amended by adding a new section 36-3412, to read:

8 36-3412. Contracts; regional behavioral health authorities

9 A. THE DIRECTOR SHALL PREPARE AND ISSUE A REQUEST FOR PROPOSALS FOR
10 BEHAVIORAL HEALTH SERVICES CONSISTENT WITH SECTIONS 36-2906 AND 36-2906.01.

11 B. CONSISTENT WITH SECTION 36-2903, SUBSECTION M, THE ADMINISTRATION'S
12 CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES SHALL INCLUDE TERMS AS
13 NECESSARY IN THE JUDGMENT OF THE DIRECTOR:

14 1. TO ENSURE ADEQUATE PERFORMANCE AND COMPLIANCE WITH ALL APPLICABLE
15 FEDERAL LAWS BY THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES.

16 2. FOR THE MAINTENANCE OF DEPOSITS, PERFORMANCE BONDS, FINANCIAL
17 RESERVES OR OTHER FINANCIAL SECURITY.

18 3. FOR THE WITHHOLDING OR FORFEITURE OF PAYMENTS TO BE MADE TO A
19 REGIONAL BEHAVIORAL HEALTH AUTHORITY BY THE ADMINISTRATION DUE TO THE
20 AUTHORITY'S FAILURE TO COMPLY WITH A PROVISION OF THE AUTHORITY'S CONTRACT
21 WITH THE ADMINISTRATION OR WITH ADOPTED RULES.

22 4. AUTHORIZING THE ADMINISTRATION TO OPERATE A REGIONAL BEHAVIORAL
23 HEALTH AUTHORITY DIRECTLY.

24 C. IF THERE IS AN INSUFFICIENT NUMBER OF QUALIFIED BIDS FOR PREPAID
25 CAPITATED BEHAVIORAL HEALTH SERVICES WITHIN A GEOGRAPHIC SERVICE AREA
26 DESCRIBED IN A REQUEST FOR PROPOSALS, THE DIRECTOR MAY EMPLOY ANY OF THE
27 OPTIONS AUTHORIZED BY SECTION 36-2904, SUBSECTION A.

28 D. DURING ANY PERIOD IN WHICH SERVICES ARE NEEDED AND NO CONTRACT
29 EXISTS, THE DIRECTOR MAY EMPLOY ANY OF THE OPTIONS AUTHORIZED BY SECTION
30 36-2904, SUBSECTION B.

31 E. IF THERE IS AN INSUFFICIENT NUMBER OF, OR AN INADEQUATE MEMBER
32 CAPACITY IN, CONTRACTS AWARDED TO CONTRACTORS, THE DIRECTOR, IN ORDER TO
33 DELIVER COVERED SERVICES TO MEMBERS ENROLLED OR EXPECTED TO BE ENROLLED IN
34 THE SYSTEM WITHIN A COUNTY, MAY NEGOTIATE AND AWARD WITHOUT A BID A CONTRACT
35 PURSUANT TO SECTION 36-2904, SUBSECTION J.

36 F. TO THE EXTENT THAT SERVICES ARE FURNISHED PURSUANT TO THIS CHAPTER,
37 AND UNLESS OTHERWISE REQUIRED BY THIS CHAPTER, A REGIONAL BEHAVIORAL HEALTH
38 AUTHORITY IS NOT SUBJECT TO TITLE 20.

39 G. REGIONAL BEHAVIORAL HEALTH AUTHORITIES ARE SUBJECT TO SECTION
40 36-2905.

41 Sec. 73. Section 36-3413, Arizona Revised Statutes, is amended to
42 read:

43 36-3413. Grievance and appeal process

44 A. The ~~department~~ ADMINISTRATION shall require all regional behavioral
45 health authorities to establish and implement a grievance and appeal process

1 for use by service providers and by individuals receiving and requesting
2 services. The ~~department~~ ADMINISTRATION shall stipulate any required
3 elements of the process in the request for proposal issued to solicit bids
4 from entities that wish to become a regional behavioral health authority.

5 B. The process shall be as prescribed in title 41, chapter 6, article
6 10, SUBJECT TO THE EXCEPTIONS IN SECTION 36-2903.01, SUBSECTION B, PARAGRAPH
7 4 AND RULES ADOPTED BY THE DIRECTOR, for grievances and appeals filed by
8 regional behavioral health authorities and by service providers and
9 individuals receiving and requesting services that have already exhausted the
10 regional behavioral health authority grievance and appeal process. In the
11 case of individuals receiving behavioral health services by a service
12 provider that has contracted directly with the ~~department~~ ADMINISTRATION
13 instead of through a regional behavioral health authority, the ~~department's~~
14 ADMINISTRATION'S grievance and appeal process is considered the primary
15 process.

16 ~~C. For individuals who are eligible for services pursuant to chapter
17 29 of this title or service providers registered with the Arizona health care
18 cost containment system administration, the department or the regional
19 behavioral health authority shall provide notice that the individuals or
20 providers may appeal a decision rendered by the department to the Arizona
21 health care cost containment system administration if the disputed decision
22 involves services or payments authorized under chapter 29 of this title.~~

23 ~~D. Individuals who are eligible for behavioral health services
24 pursuant to chapter 29 of this title and who are appealing the denial,
25 reduction, termination or suspension of a title XIX behavioral health service
26 may appeal directly to the Arizona health care cost containment system for an
27 expedited hearing pursuant to rules adopted by the director of Arizona health
28 care cost containment system.~~

29 Sec. 74. Repeal

30 Section 36-3414, Arizona Revised Statutes, is repealed.

31 Sec. 75. Section 36-3415, Arizona Revised Statutes, is amended to
32 read:

33 36-3415. Behavioral health expenditures; annual report

34 ~~Beginning October 1, 2013,~~ The ~~department of health services~~
35 ADMINISTRATION shall report annually to the joint legislative budget
36 committee on each fiscal year's medicaid and nonmedicaid behavioral health
37 expenditures, including behavioral health demographics ~~including~~ THAT INCLUDE
38 client income, utilization and expenditures, medical necessity oversight
39 practices, tracking of high-cost beneficiaries, mortality trends, placement
40 trends, program integrity and access to services.

1 Sec. 76. Section 36-3431, Arizona Revised Statutes, is amended to
2 read:

3 36-3431. Comprehensive behavioral health service system for
4 children; administration duties

5 A. The ~~division~~ ADMINISTRATION shall develop and implement a
6 comprehensive behavioral health service system for children ~~which shall~~
7 ~~include~~ THAT INCLUDES the following:

- 8 1. Annual needs assessment and resource assessment studies.
- 9 2. Annual planning to develop policy issues, programs and services.
- 10 3. Community education to increase public awareness of the needs of
11 children.
- 12 4. Centralized and coordinated screening and intake.
- 13 5. Coordinated case management.
- 14 6. A continuum of treatment services, which may include the following:
 - 15 (a) Home-based services.
 - 16 (b) Prevention and early intervention.
 - 17 (c) Psychological evaluation and consultation.
 - 18 (d) Ancillary support services.
 - 19 (e) Crisis intervention.
 - 20 (f) Outpatient counseling.
 - 21 (g) Independent living services.
 - 22 (h) Secure residential treatment services for seriously emotionally
23 disturbed children.
 - 24 (i) Residential treatment services for children's substance abuse.
 - 25 (j) Psychiatric hospitalization services.
- 26 7. Evaluation ~~which~~ THAT determines both cost effectiveness and client
27 outcome.

28 B. Subject to legislative appropriation, the ~~division~~ ADMINISTRATION
29 shall ~~systematically establish~~ MAINTAIN the system identified in subsection A
30 ~~OF THIS SECTION over a five year period ending on June 30, 1993.~~

31 C. For the purposes of developing needs assessments and resource
32 assessments and for planning, the ~~division~~ ADMINISTRATION may consult and
33 coordinate with any state agency established for that purpose.

34 Sec. 77. Section 36-3432, Arizona Revised Statutes, is amended to
35 read:

36 36-3432. System plan; annual report

37 The ~~division~~ ADMINISTRATION shall develop a plan for each fiscal year
38 identifying the services, the estimated number of clients and an
39 appropriations request for the purposes of systematic development and
40 implementation of the comprehensive behavioral health service system for
41 children. The plan shall be presented to the speaker of the house of
42 representatives, the president of the senate and the governor on or before
43 November 1 of each year.

1 Sec. 78. Section 36-3433, Arizona Revised Statutes, is amended to
2 read:

3 36-3433. Annual budget; request and allocation

4 A. The ~~department~~ ADMINISTRATION shall annually include in its budget
5 request a separate appropriations request for the comprehensive behavioral
6 health service system for children. The request shall be based on the annual
7 plan and assessment ~~studies from the division~~. All behavioral health
8 services provided for children by the ~~division~~ ADMINISTRATION shall be
9 included in the request.

10 B. In preparing its budget request, the ~~division~~ ADMINISTRATION shall:

11 1. Identify that ~~no less than~~ AT LEAST twenty ~~per cent~~ PERCENT of the
12 total amount of appropriations requested be set aside for prevention and
13 early identification programs.

14 2. Allocate up to five ~~per cent~~ PERCENT of the total appropriations
15 requested for evaluation of the system.

16 3. Establish priorities for allocation of funding ~~which~~ THAT include:

17 (a) Outpatient services.

18 (b) Secure residential services for seriously emotionally disturbed
19 children.

20 (c) Residential services for children with substance abuse problems.

21 (d) Partial care and day treatment services.

22 (e) Emergency services, including crisis shelter, crisis stabilization
23 and emergency inpatient hospitalization.

24 4. Consider the special needs of rural and urban areas of the state
25 and the special needs of cultural and ethnic groups requiring services.

26 C. The ~~division~~ ADMINISTRATION may modify the priorities identified in
27 subsection B of this section based on the results of the ~~division's~~
28 ADMINISTRATION'S needs assessments and resource assessments and shall include
29 the justification for modifications in its annual plan required pursuant to
30 section 36-3432. No monies allocated for evaluation under subsection B,
31 paragraph 2 of this section shall be used for design and implementation of a
32 management information system.

33 D. Subject to legislative appropriation, the ~~division~~ ADMINISTRATION
34 shall establish as a goal an annual increase of total children's service
35 system capacity by ten ~~per cent~~ PERCENT annually.

36 Sec. 79. Section 36-3434, Arizona Revised Statutes, is amended to
37 read:

38 36-3434. Current service delivery system; continuation

39 Nothing in this article relieves the state department of corrections,
40 the department of economic security, the department of child safety, the
41 department of education, the Arizona health care cost containment system, THE
42 DEPARTMENT OF HEALTH SERVICES or the Arizona supreme court from any current
43 responsibility as prescribed by state or federal law.

- 1 11. Arizona chapter of a national pediatric society.
- 2 B. The director of the department of health services shall appoint the
- 3 following members to serve staggered three-year terms:
- 4 1. A medical examiner who is a forensic pathologist.
- 5 2. A maternal and child health specialist involved with the treatment
- 6 of native Americans.
- 7 3. A representative of a private nonprofit organization of tribal
- 8 governments in this state.
- 9 4. A representative of the Navajo tribe.
- 10 5. A representative of the United States military family advocacy
- 11 program.
- 12 6. A representative of a statewide prosecuting attorneys advisory
- 13 council.
- 14 7. A representative of a statewide law enforcement officers advisory
- 15 council who is experienced in child homicide investigations.
- 16 8. A representative of an association of county health officers.
- 17 9. A child advocate who is not employed by or an officer of this state
- 18 or a political subdivision of this state.
- 19 10. A public member. If local teams are formed pursuant to this
- 20 article, the director of the department of health services shall select this
- 21 member from one of those local teams.
- 22 C. The team shall:
- 23 1. Develop a child fatalities data collection system.
- 24 2. Provide training to cooperating agencies, individuals and local
- 25 child fatality review teams on the use of the child fatalities data system.
- 26 3. Conduct an annual statistical report on the incidence and causes of
- 27 child fatalities in this state during the past fiscal year and submit a copy
- 28 of this report, including its recommendations for action, to the governor,
- 29 the president of the senate and the speaker of the house of representatives
- 30 on or before November 15 of each year.
- 31 4. Encourage and assist in the development of local child fatality
- 32 review teams.
- 33 5. Develop standards and protocols for local child fatality review
- 34 teams and provide training and technical assistance to these teams.
- 35 6. Develop protocols for child fatality investigations, including
- 36 protocols for law enforcement agencies, prosecutors, medical examiners,
- 37 health care facilities and social service agencies.
- 38 7. Study the adequacy of statutes, ordinances, rules, training and
- 39 services to determine what changes are needed to decrease the incidence of
- 40 preventable child fatalities and, as appropriate, take steps to implement
- 41 these changes.
- 42 8. Provide case consultation on individual cases to local teams if
- 43 requested.
- 44 9. Educate the public regarding the incidence and causes of child
- 45 fatalities as well as the public's role in preventing these deaths.

- 1 10. Designate a team chairperson.
- 2 11. Develop and distribute an informational brochure that describes the
3 purpose, function and authority of a team. The brochure shall be available
4 at the offices of the department of health services.
- 5 12. Evaluate the incidence and causes of maternal fatalities associated
6 with pregnancy in this state. For the purposes of this paragraph, "maternal
7 fatalities associated with pregnancy" means the death of a woman while she is
8 pregnant or within one year after the end of her pregnancy.
- 9 13. Inform the governor and the legislature of the need for specific
10 recommendations regarding unexplained infant death.
- 11 14. Periodically review the infant death investigation checklist
12 developed by the department of health services pursuant to section 36-3506.
13 In reviewing the checklist, the review team shall consider guidelines
14 endorsed by national infant death organizations.
- 15 D. Team members are not eligible to receive compensation, but members
16 appointed pursuant to subsection B are eligible for reimbursement of expenses
17 pursuant to title 38, chapter 4, article 2.
- 18 E. The department of health services shall provide professional and
19 administrative support to the team.
- 20 F. Notwithstanding subsections C and D of this section, this section
21 does not require expenditures above the revenue available from the child
22 fatality review fund.
- 23 Sec. 82. Section 41-2501, Arizona Revised Statutes, is amended to
24 read:
- 25 41-2501. Applicability
- 26 A. This chapter applies only to procurements initiated after
27 January 1, 1985 unless the parties agree to its application to procurements
28 initiated before that date.
- 29 B. This chapter applies to every expenditure of public monies,
30 including federal assistance monies except as otherwise specified in section
31 41-2637, by this state, acting through a state governmental unit as defined
32 in this chapter, under any contract, except that this chapter does not apply
33 to either grants as defined in this chapter, or contracts between this state
34 and its political subdivisions or other governments, except as provided in
35 chapter 24 of this title and in article 10 of this chapter. This chapter
36 also applies to the disposal of state materials. This chapter and rules
37 adopted under this chapter do not prevent any state governmental unit or
38 political subdivision from complying with the terms of any grant, gift,
39 bequest or cooperative agreement.
- 40 C. All political subdivisions and other local public agencies of this
41 state may adopt all or any part of this chapter and the rules adopted
42 pursuant to this chapter.
- 43 D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply
44 to any agency as defined in section 41-1001, including the office of the
45 governor.

1 E. The Arizona board of regents and the legislative and judicial
2 branches of state government are not subject to this chapter except as
3 prescribed in subsection F of this section.

4 F. The Arizona board of regents and the judicial branch shall adopt
5 rules prescribing procurement policies and procedures for themselves and
6 institutions under their jurisdiction. The rules must be substantially
7 equivalent to the policies and procedures prescribed in this chapter.

8 G. The Arizona state lottery commission is exempt from this chapter
9 for procurement relating to the design and operation of the lottery or
10 purchase of lottery equipment, tickets and related materials. The executive
11 director of the Arizona state lottery commission shall adopt rules
12 substantially equivalent to the policies and procedures in this chapter for
13 procurement relating to the design and operation of the lottery or purchase
14 of lottery equipment, tickets or related materials. All other procurement
15 shall be as prescribed by this chapter.

16 H. The Arizona health care cost containment system administration is
17 exempt from this chapter for provider contracts pursuant to section 36-2904,
18 subsection A and contracts for goods and services, including program
19 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 AND
20 [CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36,](#)
21 [CHAPTER 34](#). All other procurement, including contracts for the statewide
22 administrator of the program pursuant to section 36-2903, subsection B, shall
23 be as prescribed by this chapter.

24 I. Arizona industries for the blind is exempt from this chapter for
25 purchases of finished goods from members of national industries for the blind
26 and for purchases of raw materials for use in the manufacture of products for
27 sale pursuant to section 41-1972. All other procurement shall be as
28 prescribed by this chapter.

29 J. Arizona correctional industries is exempt from this chapter for
30 purchases of raw materials, components and supplies that are used in the
31 manufacture or production of goods or services for sale entered into pursuant
32 to section 41-1622. All other procurement shall be as prescribed by this
33 chapter.

34 K. The state transportation board and the director of the department
35 of transportation are exempt from this chapter other than section 41-2586 for
36 the procurement of construction or reconstruction, including engineering
37 services, of transportation facilities or highway facilities and any other
38 services that are directly related to land titles, appraisals, real property
39 acquisition, relocation, property management or building facility design and
40 construction for highway development and that are required pursuant to title
41 28, chapter 20.

42 L. The Arizona highways magazine is exempt from this chapter for
43 contracts for the production, promotion, distribution and sale of the
44 magazine and related products and for contracts for sole source creative

1 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
2 All other procurement shall be as prescribed by this chapter.

3 M. The secretary of state is exempt from this chapter for contracts
4 entered into pursuant to section 41-1012 to publish and sell the
5 administrative code. All other procurement shall be as prescribed by this
6 chapter.

7 N. This chapter is not applicable to contracts for professional
8 witnesses if the purpose of such contracts is to provide for professional
9 services or testimony relating to an existing or probable judicial proceeding
10 in which this state is or may become a party or to contract for special
11 investigative services for law enforcement purposes.

12 O. The head of any state governmental unit, in relation to any
13 contract exempted by this section from this chapter, has the same authority
14 to adopt rules, procedures or policies as is delegated to the director
15 pursuant to this chapter.

16 P. Agreements negotiated by legal counsel representing this state in
17 settlement of litigation or threatened litigation are exempt from this
18 chapter.

19 Q. This chapter is not applicable to contracts entered into by the
20 department of economic security:

21 1. With a provider licensed or certified by an agency of this state to
22 provide child day care services.

23 2. With area agencies on aging created pursuant to the older Americans
24 act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001
25 through 3058ff).

26 3. For services pursuant to title 36, chapter 29, article 2.

27 4. With an eligible entity as defined by Public Law 105-285, section
28 ~~673(1)(a)(i)~~ 673(1)(A)(i), as amended, for designated community services
29 block grant program monies and any other monies given to the eligible entity
30 that accomplishes the purpose of Public Law 105-285, section 672.

31 R. The ~~department of health services~~ ARIZONA HEALTH CARE COST
32 CONTAINMENT SYSTEM may not require that persons with whom it contracts follow
33 this chapter for the purposes of subcontracts entered into for the provision
34 of the following:

35 1. Mental health services pursuant to section 36-189, subsection B.

36 2. Services for the seriously mentally ill pursuant to title 36,
37 chapter 5, article 10.

38 3. Drug and alcohol services pursuant to section 36-141.

39 ~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS
40 WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS
41 ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to
42 title 36, chapter 30, article 1.

43 ~~S.~~ T. The department of health services is exempt from this chapter
44 for contracts for services of physicians at the Arizona state hospital.

1 ~~T.~~ U. Contracts for goods and services approved by the board of
2 trustees of the public safety personnel retirement system are exempt from
3 this chapter.

4 ~~U.~~ V. The Arizona department of agriculture is exempt from this
5 chapter with respect to contracts for private labor and equipment to effect
6 cotton or cotton stubble plow-up pursuant to rules adopted under title 3,
7 chapter 2, article 1.

8 ~~V.~~ W. The Arizona state parks board is exempt from this chapter for
9 purchases of guest supplies and items for resale such as food, linens, gift
10 items, sundries, furniture, china, glassware and utensils for the facilities
11 located in the Tonto natural bridge state park.

12 ~~W.~~ X. The Arizona state parks board is exempt from this chapter for
13 the purchase, production, promotion, distribution and sale of publications,
14 souvenirs and sundry items obtained and produced for resale.

15 ~~X.~~ Y. The Arizona state schools for the deaf and the blind are exempt
16 from this chapter for the purchase of textbooks and when purchasing products
17 through a cooperative that is organized and operates in accordance with state
18 law if such products are not available on a statewide contract and are
19 related to the operation of the schools or are products for which special
20 discounts are offered for educational institutions.

21 ~~Y.~~ Z. Expenditures of monies in the morale, welfare and recreational
22 fund established by section 26-153 are exempt from this chapter.

23 ~~Z.~~ AA. Notwithstanding section 41-2534, the director of the state
24 department of corrections may contract with local medical providers in
25 counties with a population of less than four hundred thousand persons for the
26 following purposes:

27 1. To acquire hospital and professional medical services for inmates
28 who are incarcerated in state department of corrections facilities that are
29 located in those counties.

30 2. To ensure the availability of emergency medical services to inmates
31 in all counties by contracting with the closest medical facility that offers
32 emergency treatment and stabilization.

33 ~~AA.~~ BB. The department of environmental quality is exempt from this
34 chapter for contracting for procurements relating to the water quality
35 assurance revolving fund program established pursuant to title 49, chapter 2,
36 article 5. The department shall engage in a source selection process that is
37 similar to the procedures prescribed by this chapter. The department may
38 contract for remedial actions with a single selection process. The exclusive
39 remedy for disputes or claims relating to contracting pursuant to this
40 subsection is as prescribed by article 9 of this chapter and the rules
41 adopted pursuant to that article. All other procurement by the department
42 shall be as prescribed by this chapter.

43 ~~BB.~~ CC. The motor vehicle division of the department of
44 transportation is exempt from this chapter for third-party authorizations

1 pursuant to title 28, chapter 13, only if all of the following conditions
2 exist:

3 1. The division does not pay any public monies to an authorized third
4 party.

5 2. Exclusivity is not granted to an authorized third party.

6 3. The director has complied with the requirements prescribed in title
7 28, chapter 13 in selecting an authorized third party.

8 ~~CC.~~ DD. This section does not exempt third-party authorizations
9 pursuant to title 28, chapter 13 from any other applicable law.

10 ~~DD.~~ EE. The state forester is exempt from this chapter for purchases
11 and contracts relating to wildland fire suppression and pre-positioning
12 equipment resources and for other activities related to combating wildland
13 fires and other unplanned risk activities, including fire, flood, earthquake,
14 wind and hazardous material responses. All other procurement by the state
15 forester shall be as prescribed by this chapter.

16 ~~EE.~~ FF. The cotton research and protection council is exempt from
17 this chapter for procurements.

18 ~~FF.~~ GG. Expenditures of monies in the Arizona agricultural protection
19 fund established by section 3-3304 are exempt from this chapter.

20 ~~GG.~~ HH. The Arizona commerce authority is exempt from this chapter,
21 except article 10 for the purpose of cooperative purchases. The authority
22 shall adopt policies, procedures and practices, in consultation with the
23 department of administration, that are similar to and based on the policies
24 and procedures prescribed by this chapter for the purpose of increased public
25 confidence, fair and equitable treatment of all persons engaged in the
26 process and fostering broad competition while accomplishing flexibility to
27 achieve the authority's statutory requirements. The authority shall make its
28 policies, procedures and practices available to the public. The authority
29 may exempt specific expenditures from the policies, procedures and practices.

30 ~~HH.~~ II. The Arizona exposition and state fair board is exempt from
31 this chapter for contracts for professional entertainment.

32 ~~II.~~ JJ. This chapter does not apply to the purchase of water, gas or
33 electric utilities.

34 ~~JJ.~~ KK. This chapter does not apply to professional certifications,
35 professional memberships and conference registrations.

36 ~~KK.~~ LL. The department of gaming is exempt from this chapter for
37 problem gambling treatment services contracts with licensed behavioral health
38 professionals.

39 ~~LL.~~ MM. This chapter does not apply to contracts for credit reporting
40 services.

41 ~~MM.~~ NN. This chapter does not apply to contracts entered into by the
42 department of child safety:

43 1. With a provider of family foster care pursuant to section 8-503 or
44 36-554.

1 2. With an eligible entity as defined by Public Law 105-285, section
2 673(1)(A)(i), as amended, for designated community services block grant
3 program monies and any other monies given to the eligible entity that
4 accomplishes the purpose of Public Law 105-285, section 672.

5 Sec. 83. Section 41-3803, Arizona Revised Statutes, is amended to
6 read:

7 41-3803. Human rights committee on the mentally ill

8 A. The human rights committee on the mentally ill is established in
9 the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
10 to promote the rights of persons who receive behavioral health services
11 pursuant to title 36, chapters 5 and 34.

12 B. Each region of the state covered by a regional behavioral health
13 authority shall have at least one human rights committee with the authority
14 and responsibilities as prescribed by the ~~department of health services~~
15 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant to rules
16 adopted by the ~~department~~ ADMINISTRATION relating to behavioral health
17 services.

18 C. The director of the ~~department of health services~~ ARIZONA HEALTH
19 CARE COST CONTAINMENT SYSTEM ADMINISTRATION may establish additional
20 committees to serve persons who receive behavioral health services or to
21 oversee the activities of any service provider.

22 D. Each committee established pursuant to this section shall consist
23 of at least seven and not more than fifteen members appointed by the director
24 of the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT
25 SYSTEM ADMINISTRATION with expertise in at least one of the following areas:

- 26 1. Psychology.
- 27 2. Law.
- 28 3. Medicine.
- 29 4. Education.
- 30 5. Special education.
- 31 6. Social work.

32 E. Each human rights committee shall include at least two parents of
33 children who receive behavioral health services pursuant to title 36, chapter
34 34.

35 F. Each human rights committee shall include at least two members who
36 are current or former clients of the behavioral health system.

37 G. Each committee shall be organized pursuant to this section and the
38 requirements of section 41-3804.

39 Sec. 84. Section 41-3804, Arizona Revised Statutes, is amended to
40 read:

41 41-3804. Human rights committees; membership; duties; client
42 information; violation; classification

43 A. Subject to the approval of the appropriate department director,
44 each committee established pursuant to this article shall adopt guidelines
45 that govern its operation, including terms of members, quorum and attendance

1 requirements and removal of a committee member if necessary. Each committee
2 shall adopt these guidelines by majority vote within the first three months
3 of its formation. These guidelines shall not conflict with this article.
4 The director of the appropriate department shall approve the guidelines
5 unless they are inconsistent with the department's statutes, policies,
6 procedures or rules, or if the ~~guideline does~~ GUIDELINES DO not promote
7 participation by all interested members of the community that the committee
8 serves. In addition to the procedures in the guidelines, each human rights
9 committee must approve the removal of any committee member on majority vote
10 of the committee.

11 B. Employees of the department of economic security, the department of
12 child safety and the ~~department of health services~~ ARIZONA HEALTH CARE COST
13 CONTAINMENT SYSTEM may serve on a committee only as nonvoting members whose
14 presence is not counted for the purpose of determining a quorum.

15 C. Advocacy groups, local advisory councils, committee members and the
16 director of the appropriate department may submit names of candidates to fill
17 committee vacancies. The appropriate director shall appoint a person to fill
18 a vacancy subject to the approval of the committee.

19 D. Each committee shall meet at least quarterly each calendar year.

20 E. Each committee shall provide independent oversight to:

- 21 1. Ensure that the rights of clients are protected.
22 2. Provide research in that committee's field.
23 3. Review incidents of possible abuse, neglect or denial of a client's
24 rights.

25 F. Each committee shall submit written objections to specific problems
26 or violations of client rights by department employees or service providers
27 to the director of the appropriate department for review.

28 G. Each committee shall issue an annual report of its activities and
29 recommendations for changes to the director of the appropriate department.

30 H. A committee may request from the appropriate department the
31 services of a consultant or department employee to advise it on specific
32 issues. The consultant may be a member of another human rights committee, a
33 department employee or a service provider. Subject to the availability of
34 monies, the appropriate department shall assume the cost of the consultant.
35 A consultant shall not participate in committee votes.

36 I. Subject to federal law, committee members and consultants have
37 access to client information and records maintained by the appropriate
38 department, provider or regional behavioral health authorities to the extent
39 necessary to conduct committee duties. Each person who receives information
40 or records pursuant to this subsection shall maintain the information or
41 records as confidential and sign an agreement to comply with all
42 confidentiality requirements. Any client information or records shall be
43 released to the committee without the designation of personally identifiable
44 information unless the personally identifiable information is required for
45 the official purposes of the committee. A VIOLATION OF THIS SUBSECTION IS A

1 CLASS 2 MISDEMEANOR. FOR THE PURPOSES OF THIS SUBSECTION, "personally
2 identifiable information" includes A PERSON'S name, address, date of birth,
3 social security number, tribal enrollment number, telephone or telefacsimile
4 number, driver license number, places of employment or school identification
5 or military identification number or any other distinguishing characteristic
6 that tends to identify a particular person. ~~A violation of this subsection
7 is a class 2 misdemeanor.~~

8 J. If a committee's request for information or records from a
9 department is denied, the committee may request in writing that the director
10 of the appropriate department review this decision. The agency director or
11 designee shall conduct the review within five business days after receiving
12 the request for review. The agency shall bear the costs of conducting the
13 review. A final agency decision made pursuant to this subsection is subject
14 to judicial review pursuant to title 12, chapter 7, article 6. The agency
15 shall not release any information or records during the period an appeal may
16 be filed or is pending.

17 K. Confidential records and information received by the committee or
18 its consultant are subject to the same provisions concerning subpoenas,
19 discovery and use in legal actions as are the original records and
20 information.

21 L. Any person who, in good faith and without malice and in connection
22 with duties or functions of a committee established pursuant to this article,
23 takes an action or makes a decision or recommendation as a member or agent of
24 a committee or who furnishes records, information or assistance that is
25 related to the duties of a committee is not subject to liability for civil
26 damages in consequence of that action. The court shall determine the
27 presence of malice by clear and convincing evidence.

28 Sec. 85. Section 41-3955.01, Arizona Revised Statutes, is amended to
29 read:

30 41-3955.01. Seriously mentally ill housing trust fund; purpose;
31 report

32 A. The seriously mentally ill housing trust fund is established. The
33 director of the ~~department of health services~~ ARIZONA HEALTH CARE COST
34 CONTAINMENT SYSTEM ADMINISTRATION shall administer the fund. The fund
35 consists of monies received pursuant to section 44-313 and investment
36 earnings.

37 B. On notice from the ~~department of health services~~ DIRECTOR OF THE
38 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, the state
39 treasurer shall invest and divest monies in the fund as provided by section
40 35-313, and monies earned from investment shall be credited to the fund.

41 C. Fund monies shall be spent on approval of the ~~department of health~~
42 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION solely
43 for housing projects for the seriously mentally ill.

44 D. The director of the ~~department of health services~~ ARIZONA HEALTH
45 CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall report annually to the

1 legislature on the status of the seriously mentally ill housing trust fund.
2 The report shall include a summary of facilities for which funding was
3 provided during the preceding fiscal year and shall show the cost and
4 geographic location of each facility and the number of individuals benefiting
5 from the operation, construction or renovation of the facility. The report
6 shall be submitted to the president of the senate and the speaker of the
7 house of representatives no later than September 1 of each year.

8 E. Monies in the seriously mentally ill housing trust fund are exempt
9 from the provisions of section 35-190 relating to lapsing of appropriations.

10 F. An amount not to exceed ten ~~per cent~~ PERCENT of the seriously
11 mentally ill housing trust fund monies may be appropriated annually by the
12 legislature to the ~~department of health services~~ ARIZONA HEALTH CARE COST
13 CONTAINMENT SYSTEM for administrative costs in providing services relating to
14 the seriously mentally ill housing trust fund.

15 G. For any construction project financed by the ~~department of health~~
16 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant
17 to this section, the ~~department of health services~~ ADMINISTRATION shall
18 notify a city, town, county or tribal government that a project is planned
19 for its jurisdiction and, before proceeding, shall seek comment from the
20 governing body of the city, town, county or tribal government or an official
21 authorized by the governing body of the city, town, county or tribal
22 government. The ~~department of health services~~ ARIZONA HEALTH CARE COST
23 CONTAINMENT SYSTEM ADMINISTRATION shall not interfere with or attempt to
24 override the local jurisdiction's planning, zoning or land use regulations.

25 Sec. 86. Report

26 On or before November 15, 2015, the Arizona health care cost
27 containment system and the department of health services shall submit a joint
28 report for review by the joint legislative budget committee and the
29 governor's office of strategic planning and budgeting that details the
30 transfer of resources between the two departments pursuant to Laws 2015,
31 chapter 19, section 9.

32 Sec. 87. Effective date

33 This act is effective from and after June 30, 2016.