

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

**CHAPTER 195**  
**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  
46 disability as defined in section 15-761, that no appropriate program exists

1 within the school district or county, as applicable, and that no program can  
2 feasibly be instituted by the school district or county, as applicable.

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

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

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

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

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

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

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

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

42 H. If a residential special education placement is required by the  
43 child's individualized education program, the educational component of the  
44 residential facility shall be one that is approved by the department of  
45 education for the specific special education services required.

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

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

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

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

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

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

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

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

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

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

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

43           15-1181. Definitions

44           In this article, unless the context otherwise requires:

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



1 ADMINISTRATION is authorized to contract for the development and maintenance  
2 of alcohol and drug abuse services from monies available for such purpose  
3 with public or private agencies or organizations engaged in providing such  
4 preventive, rehabilitative and research services including educational,  
5 counseling and research activities directed toward preventing persons from  
6 becoming addicted to the excessive use of alcohol or other drugs and  
7 consultative services to relatives or other persons concerned with the care  
8 of persons addicted to the excessive use of alcohol or other drugs, in  
9 addition to detecting, counseling, referring, caring for and training those  
10 afflicted.

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

16 Sec. 6. Section 36-189, Arizona Revised Statutes, is amended to read:  
17 36-189. State participation in establishment and maintenance of  
18 local health departments and local health services

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

37 B. The ~~division of behavioral health in the department of health~~  
38 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may use ~~funds~~ MONIES at  
39 its disposal, including federal ~~funds~~ MONIES available to the state for this  
40 purpose, and not otherwise appropriated to contract for the establishment and  
41 maintenance of local mental health facilities and services to be provided by  
42 either private or public agencies. ~~Funds~~ MONIES available for this purpose  
43 shall be expended only for local mental health facilities and services. The  
44 ~~division of behavioral health in the department of health services~~ ARIZONA  
45 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall advance or reimburse  
46 ~~funds~~ MONIES to local agencies that have submitted and obtained approval of

1 an annual plan and budget. The annual amount of state matching funds  
2 provided shall not exceed seventy-five ~~per cent~~ PERCENT of the total annual  
3 amount of ~~funds~~ MONIES and value of in-kind resources used by the agency to  
4 establish and maintain local mental health facilities and services.

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

6 36-201. Definitions

7 In this article, unless the context otherwise requires:

8 1. "Chief medical officer" means the chief medical officer of the  
9 state hospital.

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

11 ~~3. "Deputy director" means the deputy director of the division of~~  
12 ~~behavioral health in the department.~~

13 ~~4.~~ 3. "Director" means the director of the department of health  
14 services.

15 ~~5. "Division" means the division of behavioral health in the~~  
16 ~~department of health services.~~

17 ~~6.~~ 4. "Employee" means an officer or employee of the state hospital.

18 ~~7.~~ 5. "State hospital" means Arizona state hospital.

19 ~~8.~~ 6. "Superintendent" means the superintendent of the state  
20 hospital.

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

22 36-202. State hospital for the mentally disordered; official  
23 name; purpose; facilities and equipment

24 A. A state hospital shall be maintained for the care and treatment of  
25 persons with mental disorders, ~~—~~ and persons with other personality disorders  
26 or emotional conditions who will benefit from care and treatment. Admissions  
27 to the state hospital shall be in accordance with law. The hospital shall be  
28 called the Arizona state hospital.

29 B. Subject to legislative appropriation, the state hospital may  
30 provide services to persons suffering from alcoholism and to persons  
31 suffering from drug abuse.

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

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

38 2. Facilities for proper segregation and care of child patients.

39 3. Facilities for recreation and physical training.

40 4. An institutional library for the use of patients.

41 5. A properly equipped dental department.

42 6. A properly equipped laboratory and X-ray department.

43 7. A patient tracking system approved by the ~~deputy~~ director ~~which~~  
44 THAT monitors individual progress on an inpatient basis and ~~assures~~ ENSURES  
45 suitable aftercare placement.

1 D. The state hospital shall be under the charge and control of the  
2 ~~deputy~~ director of the ~~division of behavioral health of the~~ department of  
3 health services, pursuant to ~~the provisions of~~ this article ~~and chapter 34 of~~  
4 ~~this title.~~

5 Sec. 9. Section 36-203, Arizona Revised Statutes, is amended to read:

6 36-203. Persons with intellectual disabilities assigned to  
7 state hospital; department duties

8 A. The ~~division~~ DEPARTMENT OF HEALTH SERVICES shall develop and  
9 provide, in coordination with the department of economic security,  
10 specialized treatment programs for persons with an intellectual disability  
11 who have been admitted to the state hospital. The ~~division~~ DEPARTMENT OF  
12 HEALTH SERVICES may contract with the department of economic security in  
13 providing these programs.

14 B. The ~~division~~ DEPARTMENT, to the extent practicable, shall provide  
15 separate areas at the state hospital for persons diagnosed with intellectual  
16 disabilities and, to the extent practicable, shall provide that treatment  
17 programs developed pursuant to subsection A of this section are separate from  
18 treatment programs for other patients and for separate use of facilities by  
19 persons diagnosed with intellectual disabilities.

20 C. The ~~division~~ DEPARTMENT OF HEALTH SERVICES, on request of a parent  
21 or guardian of a minor with an intellectual disability or the guardian of an  
22 adult with an intellectual disability or on the request of an adult with an  
23 intellectual disability, shall notify the department of economic security  
24 before the release of that person from the state hospital and request that  
25 the department of economic security provide placement evaluation and case  
26 management services for that person. The evaluation shall consider the  
27 person's needs for housing, day programs, employment training, employment and  
28 support services.

29 D. The ~~division~~ DEPARTMENT, on the application of a parent or guardian  
30 of a minor with an intellectual disability or the guardian of an adult with  
31 an intellectual disability or on the request of an adult with an intellectual  
32 disability, when the person has been authorized for discharge from the state  
33 hospital, may provide interim care and custody for that person pending the  
34 availability of intellectual disability programs and services in accordance  
35 with section 36-556.

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

37 36-204. Duties of director

38 The ~~deputy~~ director shall:

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

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

1           3. Prescribe forms of complaints, certificates of mental illness, ~~and~~  
2 commitments.

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

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

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

9           36-205. Superintendent of state hospital; appointment;  
10           qualifications; compensation; chief medical officer

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

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

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

17           D. The superintendent shall have the following qualifications:

18           1. Administrative experience in the private sector.

19           2. An educational background that prepares the superintendent for the  
20 administrative responsibilities assigned to the position.

21           3. Mental health-related experience in both an institutional and  
22 community setting.

23           E. The superintendent, with the approval of the ~~deputy~~ director, shall  
24 appoint a chief medical officer of the state hospital who is a physician and  
25 who is licensed pursuant to title 32, chapter 13 or 17. The chief medical  
26 officer shall have not less than three years' experience in the treatment of  
27 psychiatric disorders and shall be board-certified in psychiatry by the board  
28 of psychiatry and neurology. The chief medical officer is eligible for  
29 compensation pursuant to section 38-611. The chief medical officer is  
30 responsible for the clinical administration of the hospital and shall report  
31 directly to the superintendent.

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

33           36-206. Duties of superintendent; clinical assessment

34           A. The ~~deputy~~ director has charge of the state hospital and the  
35 superintendent shall supervise and direct its activities, subject to the  
36 provisions of law and approval of the ~~deputy~~ director. The superintendent is  
37 directly responsible to the ~~deputy~~ director for carrying out the purposes for  
38 which the hospital is maintained. Subject to the approval of the ~~deputy~~  
39 director, the superintendent may deputize any qualified officer of the state  
40 hospital to do or perform any act the superintendent is empowered to do or  
41 charged with the responsibility of doing by law.

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

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

3 D. On or before August 1 of each year, the ~~deputy~~ director shall  
4 establish maximum funded capacity and a percentage allocation formula for  
5 forensic and civil bed capacity at the Arizona state hospital based on census  
6 data collected pursuant to sections 13-3994, 13-4512, 36-202.01 and  
7 36-503.03. By June 1 of each year, the ~~deputy~~ director shall solicit and  
8 consider the recommendations of representatives of the county board of  
9 supervisors, the Arizona prosecuting attorneys' advisory council and the  
10 superior court when establishing this formula. In addition to establishing  
11 the formula, the ~~deputy~~ director, the county board of supervisors, the  
12 Arizona prosecuting attorneys' advisory council and the superior court shall  
13 develop a contingency plan for the placement of patients subject to sections  
14 13-3994, 13-4512, 36-202.01 and 36-503.03 in times of emergency and other  
15 unforeseen circumstances. The ~~deputy~~ director shall notify the governor, the  
16 president of the senate, the speaker of the house of representatives and the  
17 chairman of each county board of supervisors of the funded capacity and  
18 allocation formula for the current fiscal year. Thirty days before the  
19 notification of the forensic and civil bed funded capacity formula, the  
20 ~~deputy~~ director shall provide this information to the representatives of the  
21 county board of supervisors, the Arizona prosecuting attorneys' advisory  
22 council and the superior court for comment. The ~~deputy~~ director shall  
23 include these comments when issuing the formula.

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

25 36-208. Employees; compensation

26 A. Except as otherwise provided by this article, the ~~deputy~~ director  
27 shall employ all employees of the state hospital. The ~~deputy~~ director may  
28 employ necessary medical consultants ~~upon~~ **ON** recommendation of the  
29 superintendent. The ~~deputy~~ director may permit members of the medical staff  
30 to act as consultants in psychiatry.

31 B. Subject to the laws of this state governing state personnel  
32 administration, the superintendent may discharge an employee for cause. An  
33 employee so discharged ~~may~~, ~~upon~~ **ON** request, **MAY** have the reasons for ~~his~~ **THE**  
34 discharge reviewed and determined by the ~~deputy~~ director. The superintendent  
35 shall file a written report with the ~~deputy~~ director of each discharge  
36 setting forth the reasons ~~therefor~~ **FOR THE DISCHARGE**.

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

39 Sec. 14. Section 36-209, Arizona Revised Statutes, is amended to read:

40 36-209. Reports by superintendent and director

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

44 1. The number of patients received, conditionally discharged and  
45 discharged and voluntary patients treated.

46 2. Methods of treatment used and the results.

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

5           4. Census data for treatment programs pursuant to sections 13-3994,  
6 13-4512, 36-202.01 and 36-503.03.

7           5. A complete employment and personnel record.

8           6. The condition of existing equipment.

9           7. Recommendations for improvement of the institution.

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

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

16           1. The amounts appropriated for the current fiscal year for operation,  
17 maintenance and improvement.

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

19           3. The balance on hand.

20           4. The estimated expenditures for the current month.

21           5. An inventory report.

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

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

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

33           1. An account of the work done.

34           2. Recommendations for improvements.

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

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

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

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

46          36-210. Expenditures

1 A. This article does not give the director or any employee authority  
2 to create a debt or obligation in excess of the amount appropriated by the  
3 legislature to carry out its provisions. If monies are not appropriated to  
4 carry out the purpose of this article, the director shall submit  
5 recommendations to the legislature, with a statement of the cost when an  
6 improvement is requested.

7 B. Except as provided by subsection D of this section, the director of  
8 the department of administration shall not issue a warrant for expenditures  
9 by the state hospital in excess of the estimate contained in the monthly  
10 financial statement unless the superintendent submits a written request that  
11 is approved in writing by the ~~deputy~~ director OF THE DEPARTMENT OF HEALTH  
12 SERVICES and that states the reasons for the request. The director of the  
13 department of administration shall not issue warrants in excess of the amount  
14 available for the current quarter.

15 C. If a patient in the state hospital requires a health care service  
16 that the state hospital or a facility or provider contracted by the state  
17 hospital cannot provide, the department of health services shall pay approved  
18 claims from a facility or provider that provides these required services as  
19 follows:

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

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

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

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

32 36-212. Maximum security area required

33 The superintendent, under the direction of the ~~deputy~~ director, shall  
34 equip, staff and supervise the operation of an area consisting of one or more  
35 separate buildings on the state hospital grounds in Phoenix to be designated  
36 a maximum security area. The superintendent shall designate which patients  
37 shall be confined within a maximum security area, ~~—Such area~~ WHICH shall be  
38 equipped, staffed and maintained in order to provide treatment and necessary  
39 supervision to prevent the patients from leaving ~~such~~ THE area without  
40 authorization.

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

42 36-213. Store and canteen; deposit

43 A. The superintendent, with the approval of the ~~deputy~~ director, may  
44 set aside and designate any space on the grounds of the hospital that is not  
45 needed for other authorized purposes for the establishment and maintenance of  
46 store and canteen facilities for the sale of candies, cigarettes, food,

1 nonalcoholic beverages, sundries and other articles to patients and employees  
2 and for the benefit of patients of the state hospital.

3 B. The superintendent, with the approval of the ~~deputy~~ director, may  
4 contract with an outside firm, individual or agency to lease and operate the  
5 store and canteen facilities. ~~Such~~ THE outside firm, individual or agency  
6 shall provide a bond in an amount set by the superintendent with the approval  
7 of the ~~deputy~~ director. The facilities shall be conducted subject to the  
8 rules and regulations of the ~~division~~ DEPARTMENT, and rental and service  
9 charges shall be established by the superintendent, with the approval of the  
10 ~~deputy~~ director, as will reimburse the hospital for the cost thereof.

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

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

19 36-216. Budget for state hospital

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

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

28 C. MONIES APPROPRIATED TO THE DEPARTMENT FOR THE STATE HOSPITAL  
29 PROGRAMS, FEES GENERATED BY THE DEPARTMENT FOR THESE PROGRAMS AND GRANTS AND  
30 GIFTS TO THE DEPARTMENT SHALL BE MAINTAINED IN THE APPROPRIATE FUND TO PAY  
31 PROGRAM AND ADMINISTRATIVE COSTS. THE ADMINISTRATIVE COSTS OF EACH PROGRAM  
32 SHALL BE SEPARATELY IDENTIFIED IN THE ACCOUNTING RECORDS OF THE DEPARTMENT.

33 36-217. State hospital annual report

34 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT TO THE  
35 GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF  
36 THE SENATE A FINANCIAL AND PROGRAMMATIC REPORT ON THE STATE HOSPITAL FOR THE  
37 PRECEDING FISCAL YEAR. THIS REPORT SHALL INCLUDE ALL REVENUES AND  
38 EXPENDITURES OF THE STATE HOSPITAL, INCLUDING SPECIFIC IDENTIFICATION OF  
39 ADMINISTRATIVE COSTS FOR AND THE NUMBER OF PERSONS SERVED AT THE STATE  
40 HOSPITAL.

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

42 36-501. Definitions

43 In this chapter, unless the context otherwise requires:

44 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT  
45 SYSTEM ADMINISTRATION.

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

6           ~~2-~~ 3. "Chief medical officer" means the chief medical officer under  
7 the supervision of the superintendent of the state hospital.

8           ~~3-~~ 4. "Contraindicated" means that access is reasonably likely to  
9 endanger the life or physical safety of the patient or another person.

10          ~~4-~~ 5. "Court" means the superior court in the county in this state in  
11 which the patient resides or was found before screening or emergency  
12 admission under this title.

13          ~~5-~~ 6. "Danger to others" means that the judgment of a person who has  
14 a mental disorder is so impaired that the person is unable to understand the  
15 person's need for treatment and as a result of the person's mental disorder  
16 the person's continued behavior can reasonably be expected, on the basis of  
17 competent medical opinion, to result in serious physical harm.

18          ~~6-~~ 7. "Danger to self":

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

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

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

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

29          ~~7-~~ 8. "Department" means the department of health services.

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

32          9. "Detention" means the taking into custody of a patient or proposed  
33 patient.

34          10. "Director" means the director of the ~~department~~ **ADMINISTRATION**.

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

37          ~~12-~~ 11. "Evaluation" means:

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

43           (i) Two licensed physicians, who shall be qualified psychiatrists, if  
44 possible, or at least experienced in psychiatric matters, and who shall  
45 examine and report their findings independently. The person against whom a  
46 petition has been filed shall be notified that the person may select one of

1 the physicians. A psychiatric resident in a training program approved by the  
2 American medical association or by the American osteopathic association may  
3 examine the person in place of one of the psychiatrists if the resident is  
4 supervised in the examination and preparation of the affidavit and testimony  
5 in court by a qualified psychiatrist appointed to assist in the resident's  
6 training, and if the supervising psychiatrist is available for discussion  
7 with the attorneys for all parties and for court appearance and testimony if  
8 requested by the court or any of the attorneys.

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

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

21 ~~13-~~ 12. "Evaluation agency" means a health care agency that is  
22 licensed by the department and that has been approved pursuant to this title,  
23 providing those services required of such agency by this chapter.

24 ~~14-~~ 13. "Family member" means a spouse, parent, adult child, adult  
25 sibling or other blood relative of a person undergoing treatment or  
26 evaluation pursuant to this chapter.

27 14. "GRAVE DISABILITY" MEANS A CONDITION EVIDENCED BY BEHAVIOR IN  
28 WHICH A PERSON, AS A RESULT OF A MENTAL DISORDER, IS LIKELY TO COME TO  
29 SERIOUS PHYSICAL HARM OR SERIOUS ILLNESS BECAUSE THE PERSON IS UNABLE TO  
30 PROVIDE FOR THE PERSON'S OWN BASIC PHYSICAL NEEDS.

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

33 16. "Health care entity" means a health care provider, the department,  
34 the ~~Arizona health care cost containment system~~ administration or a regional  
35 behavioral health authority under contract with the ~~department~~  
36 ADMINISTRATION.

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

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

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

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

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

7           (a) Licensed in this state.

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

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

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

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

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

27           (b) The declining mental abilities that directly accompany impending  
28 death.

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

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

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

39           27. "Outpatient treatment" or "combined inpatient and outpatient  
40 treatment" means any treatment program not requiring continuous inpatient  
41 hospitalization.

42           28. "Outpatient treatment plan" means a treatment plan that does not  
43 require continuous inpatient hospitalization.

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

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

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

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

9           (b) Substantially impairs the person's capacity to make an informed  
10 decision regarding treatment, and this impairment causes the person to be  
11 incapable of understanding and expressing an understanding of the advantages  
12 and disadvantages of accepting treatment and understanding and expressing an  
13 understanding of the alternatives to the particular treatment offered after  
14 the advantages, disadvantages and alternatives are explained to that person.

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

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

21           ~~33.~~ 32. "Prepetition screening" means the review of each application  
22 requesting court-ordered evaluation, including an investigation of facts  
23 alleged in such application, an interview with each applicant and an  
24 interview, if possible, with the proposed patient. The purpose of the  
25 interview with the proposed patient is to assess the problem, explain the  
26 application and, when indicated, attempt to persuade the proposed patient to  
27 receive, on a voluntary basis, evaluation or other services.

28           ~~34.~~ 33. "Prescribed form" means a form established by a court or the  
29 rules of the ~~division that have been approved by the director or~~  
30 ADMINISTRATION in accordance with the laws of this state.

31           ~~35.~~ 34. "Professional" means a physician who is licensed pursuant to  
32 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title  
33 32, chapter 19.1 or a psychiatric and mental health nurse practitioner who is  
34 certified pursuant to title 32, chapter 15.

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

38           ~~37.~~ 36. "Psychiatric and mental health nurse practitioner" means a  
39 registered nurse practitioner as defined in section 32-1601 who has completed  
40 an adult or family psychiatric and mental health nurse practitioner program  
41 and who is certified as an adult or family psychiatric and mental health  
42 nurse practitioner by the state board of nursing.

43           ~~38.~~ 37. "Psychiatrist" means a licensed physician who has completed  
44 three years of graduate training in psychiatry in a program approved by the  
45 American medical association or the American osteopathic association.

1           ~~39.~~ 38. "Psychologist" means a person who is licensed under title 32,  
2 chapter 19.1 and who is experienced in the practice of clinical psychology.

3           ~~40.~~ 39. "Records" means all communications that are recorded in any  
4 form or medium and that relate to patient examination, evaluation or  
5 behavioral or mental health treatment. Records include medical records that  
6 are prepared by a health care provider or other providers. Records do not  
7 include:

8           (a) Materials that are prepared in connection with utilization review,  
9 peer review or quality assurance activities, including records that a health  
10 care provider prepares pursuant to section 36-441, 36-445, 36-2402 or  
11 36-2917.

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

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

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

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

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

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

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

26           ~~36-502.~~ Powers and duties of the director of AHCCCS; rules;  
27 expenditure limitation

28           A. The ~~deputy~~ director, ~~with the approval of the director,~~ shall make  
29 rules ~~including~~ THAT INCLUDE standards for agencies OTHER THAN THE STATE  
30 HOSPITAL WHEN providing services, ~~and prescribing~~ SHALL PRESCRIBE forms as  
31 may be necessary, ~~for the proper administration and enforcement of this~~  
32 chapter. The rules shall be applicable to patients admitted to or treated in  
33 agencies, OTHER THAN THE STATE HOSPITAL, as set forth in this chapter and  
34 shall provide for periodic inspections of such agencies.

35           B. The ~~deputy~~ director, ~~with the approval of the director,~~ shall make  
36 rules concerning THE admission of patients and the transfer of patients  
37 between mental health treatment agencies OTHER THAN THE STATE HOSPITAL. A  
38 patient undergoing court-ordered treatment may be transferred from one mental  
39 health treatment agency to another in accordance with the rules of the ~~deputy~~  
40 director, subject to the approval of the court.

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

44           D. The total amount of state monies that may be spent in any fiscal  
45 year by the ~~department~~ ADMINISTRATION for mental health services pursuant to  
46 this chapter ~~shall~~ MAY not exceed the amount appropriated or authorized by

1 section 35-173 for that purpose. This chapter ~~shall~~ DOES not ~~be construed to~~  
2 impose a duty on an officer, agent or employee of this state to discharge a  
3 responsibility or ~~to~~ create any right in a person or group if the discharge  
4 or right would require an expenditure of state monies in excess of the  
5 expenditure authorized by legislative appropriation for that specific  
6 purpose.

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

9 36-502.01. Powers and duties of director of the department of  
10 health services; rules; expenditure limitation

11 A. THE DIRECTOR OF THE DEPARTMENT SHALL MAKE RULES THAT INCLUDE  
12 STANDARDS FOR THE STATE HOSPITAL WHEN PROVIDING SERVICES AS AN EVALUATION  
13 AGENCY OR MENTAL HEALTH AGENCY AND SHALL PRESCRIBE FORMS AS MAY BE NECESSARY  
14 FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THOSE RESPONSIBILITIES. THE  
15 RULES SHALL BE APPLICABLE TO PATIENTS ADMITTED TO, EVALUATED BY OR TREATED IN  
16 THE STATE HOSPITAL AS SET FORTH IN THIS CHAPTER AND SHALL PROVIDE FOR  
17 PERIODIC INSPECTIONS OF THE STATE HOSPITAL.

18 B. THE DIRECTOR OF THE DEPARTMENT SHALL MAKE RULES CONCERNING THE  
19 ADMISSION OF PATIENTS TO THE STATE HOSPITAL AND THE TRANSFER OF PATIENTS  
20 BETWEEN THE STATE HOSPITAL AND OTHER MENTAL HEALTH TREATMENT AGENCIES. A  
21 PATIENT UNDERGOING COURT-ORDERED TREATMENT MAY BE TRANSFERRED BETWEEN THE  
22 STATE HOSPITAL AND ANOTHER MENTAL HEALTH TREATMENT AGENCY IN ACCORDANCE WITH  
23 THE RULES OF THE DIRECTOR OF THE DEPARTMENT, SUBJECT TO THE APPROVAL OF THE  
24 COURT. THE DIRECTOR OF THE DEPARTMENT SHALL CONSULT WITH THE DIRECTOR OF THE  
25 ADMINISTRATION ON RULES RELATING TO TRANSFERS TO AND FROM THE STATE HOSPITAL  
26 AND OTHER MENTAL HEALTH TREATMENT AGENCIES.

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

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

37 Sec. 22. Repeal; transfer of monies

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

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

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

44 36-504. Notice of patients' rights; notification to family

45 A. Every person undergoing treatment or evaluation pursuant to this  
46 chapter is entitled to the rights set forth in this chapter and to rights

1 that the ~~deputy~~ director, ~~with the approval of the director~~, specifies by  
2 rule. A list of patients' rights as required by this chapter and by the  
3 ~~division~~ ADMINISTRATION shall be compiled and published by the ~~deputy~~  
4 director, ~~with the approval of the director~~, by rule. The list shall be  
5 prominently posted in English and Spanish in all facilities providing  
6 evaluation or treatment. A patient's rights shall otherwise be brought to  
7 the attention of the patient as this chapter requires or the ~~deputy~~  
8 director, ~~with the approval of the director~~, may direct by rule.

9 B. An agency ~~which~~ THAT is evaluating, examining or treating a person  
10 pursuant to article 4 or 5 of this chapter shall immediately notify the  
11 person's guardian or, if none, a member of the person's family that the  
12 person is being treated in the agency. If the person has an agent appointed  
13 pursuant to chapter 32 of this title, the agency shall notify that agent. If  
14 the agency is unable to learn the identity of OR TO CONTACT the guardian or  
15 ~~a~~ member of the person's family ~~or is unable to contact them~~, it shall  
16 document every attempt that was made to comply with ~~such~~ THE notification.  
17 The agency shall release any further information only after the treating  
18 professional or that person's designee interviews the person undergoing  
19 treatment or evaluation to determine whether or not release is in that  
20 person's best interests. A decision to release or withhold information is  
21 subject to review pursuant to section 36-517.01. The treating agency shall  
22 record the name of a person to whom any information is given.

23 Sec. 24. Section 36-511, Arizona Revised Statutes, is amended to read:

24 36-511. Quality of treatment

25 A. Subject to ~~his~~ THE right to refuse psychiatric and medical  
26 treatment pursuant to sections 36-512 and 36-513 and pursuant to rules of the  
27 ~~division~~ ADMINISTRATION, every person undergoing evaluation or treatment  
28 pursuant to this chapter shall receive physical and psychiatric care and  
29 treatment, delivered in a manner that allows the person's family members or  
30 guardian to participate in ~~his~~ THE care and treatment when appropriate, for  
31 the full period ~~he~~ THE PERSON is detained. The agency providing care and  
32 treatment shall keep a clinical record for each person ~~which~~ THAT details all  
33 medical and psychiatric evaluations and all care and treatment received by  
34 the person.

35 B. An agency administering the care and treatment shall provide and  
36 make available to the guardian, if one exists, ~~upon~~ ON request:

37 1. A written treatment program based on the individual needs of the  
38 person.

39 2. Careful and periodic reexaminations of each person by appropriate  
40 professional persons, including a physician. Reexaminations shall be made  
41 once each ninety days, and the results shall be a part of the person's  
42 medical record.

43 3. A full physical examination once a year.

44 4. Adequate medical treatment in the light of present medical  
45 knowledge in accordance with the results of these examinations.

1 C. An agency administering inpatient care and treatment, in  
2 conjunction with the community treatment agency, ~~shall, prior to~~ AND BEFORE  
3 the release of a patient, SHALL prepare a plan for the patient's care after  
4 release, including arrangements for a place to live, ~~and an adequate program~~  
5 for necessary treatment and maintenance, and SHALL provide the plan to the  
6 patient's guardian if one exists. The community treatment agency shall make  
7 a good faith effort to initiate treatment with a patient released from an  
8 inpatient facility.

9 Sec. 25. Section 36-518, Arizona Revised Statutes, is amended to read:

10 36-518. Application for voluntary admission; admission to  
11 agency; minors; transportation

12 A. Pursuant to rules of the ~~division~~ ADMINISTRATION, any person who is  
13 eighteen years of age or older and who manifests the capacity to give and  
14 gives informed consent may be hospitalized for evaluation, care and treatment  
15 by voluntarily ~~making written application~~ APPLYING IN WRITING on a prescribed  
16 form. The agency to which the person applies may accept and admit the person  
17 if the medical director of the agency or the admitting officer believes that  
18 the person needs evaluation or will benefit from care and treatment of a  
19 mental disorder or other personality disorder or emotional condition in the  
20 agency. Informed consent ~~as defined in section 36-501~~ may be given by the  
21 person's guardian pursuant to section 14-5312.01 or agent appointed pursuant  
22 to chapter 32, article 6 of this title if that agent was granted the  
23 authority to do this by the mental health care power of attorney. If an  
24 agent gives informed consent ~~as defined in section 36-501~~, an evaluation  
25 shall be conducted pursuant to section 36-3284.

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

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

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

41 2. An interview with the child by the medical director of the mental  
42 health agency.

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

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

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

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

12           E. All emergency admissions for mental health evaluation or treatment  
13 of children shall be made pursuant to the standards and procedures in article  
14 4 of this chapter.

15           F. If a parent, guardian or custodian is unavailable after a  
16 reasonable effort has been made to locate the parent, guardian or custodian,  
17 the court shall appoint a guardian for the child pursuant to title 14,  
18 chapter 5.

19           G. The board of supervisors of the county of residence of a person who  
20 has submitted an application for admission to the state hospital pursuant to  
21 subsection A of this section shall provide transportation to the state  
22 hospital for the person if it appears that the person is eligible for  
23 voluntary admission to the state hospital after consultation between the  
24 state hospital and the evaluation or screening agency. The county is  
25 responsible for that expense to the extent the expense is not covered by any  
26 third-party payor.

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

28           36-520. Application for evaluation; definition

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

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

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

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

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

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

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

8           C. The application shall be signed and notarized.

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

16           E. If the applicant for the court-ordered evaluation presents the  
17 person to be evaluated at the screening agency, the agency shall conduct a  
18 prepetition screening examination. Except in the case of an emergency  
19 evaluation, the person to be evaluated shall not be detained or forced to  
20 undergo prepetition screening against the person's will.

21           F. If the applicant for the court-ordered evaluation does not present  
22 the person to be evaluated at the screening agency, the agency shall conduct  
23 the prepetition screening at the home of the person to be evaluated or any  
24 other place the person to be evaluated is found. If prepetition screening is  
25 not possible, the screening agency shall proceed as in section 36-521,  
26 subsection B.

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

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

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

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

40           1. Is under eighteen years of age.

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

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

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

1           36-521. Preparation of petition for court-ordered evaluation:  
2                                   procedures for prepetition screening

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

12           B. After prepetition screening has been completed, the screening  
13 agency shall prepare a report of opinions and conclusions. If prepetition  
14 screening is not possible, the screening agency shall prepare a report giving  
15 reasons why the screening was not possible and including opinions and  
16 conclusions of staff members who attempted to conduct prepetition screening  
17 or otherwise investigated the matter.

18           C. If the prepetition screening report indicates that there exists no  
19 reasonable cause to believe the allegations of the applicant for the  
20 court-ordered evaluation, it shall be reviewed by the medical director of the  
21 screening agency or ~~his~~ THE MEDICAL DIRECTOR'S designee.

22           D. If, based ~~upon~~ ON the allegations of the applicant for the  
23 court-ordered evaluation and the prepetition screening report or other  
24 information obtained while attempting to conduct a prepetition screening, the  
25 agency determines that there is reasonable cause to believe that the proposed  
26 patient is, as a result of mental disorder, a danger to self or to others, ~~OR~~  
27 OR has a persistent or acute disability or a grave disability and that the  
28 proposed patient is unable or unwilling to voluntarily receive evaluation or  
29 is likely to present a danger to self or to others, has a grave disability or  
30 will further deteriorate before receiving a voluntary evaluation, ~~if~~ THE  
31 AGENCY shall prepare a petition for court-ordered evaluation and shall file  
32 the petition, which shall be signed by the person who prepared the petition  
33 unless the county attorney performs these functions. If the agency  
34 determines that there is reasonable cause to believe that the person is in  
35 such a condition that without immediate hospitalization he is likely to harm  
36 himself or others, ~~if~~ THE AGENCY shall take all reasonable steps to procure  
37 such hospitalization on an emergency basis.

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

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

44           G. If a petition for court-ordered evaluation alleges danger to others  
45 as described in section 36-501, the screening agency, ~~shall, prior to~~ BEFORE  
46 filing such A petition, SHALL contact the county attorney for a review of the

1 petition. The county attorney shall examine the petition and make one of the  
2 following written recommendations:

- 3 1. That a criminal investigation is warranted.
- 4 2. That the screening agency shall file the petition.
- 5 3. That no further proceedings are warranted. The screening agency  
6 shall consider ~~such~~ THE recommendation in determining whether a court-ordered  
7 evaluation is justified and shall include ~~such~~ THE recommendation with the  
8 petition if ~~it~~ THE AGENCY decides to file the petition with the court.

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

11 Sec. 28. Section 36-522, Arizona Revised Statutes, is amended to read:  
12 36-522. Voluntary evaluation

13 A. If the petition for court-ordered evaluation is not filed because  
14 it has been determined that the proposed patient will voluntarily receive an  
15 evaluation and is unlikely to present a danger to self or others until the  
16 voluntary evaluation, the evaluation agency provided for by the county, or  
17 selected by the proposed patient, shall be immediately notified and shall  
18 provide evaluation of the proposed patient at a scheduled time and place  
19 within five days of the notice. The voluntary evaluation may be on an  
20 inpatient or outpatient basis.

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

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

32 Sec. 29. Section 36-523, Arizona Revised Statutes, is amended to read:  
33 36-523. Petition for evaluation

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

- 35 1. The name, address and interest in the case of the individual who  
36 applied for the petition.
- 37 2. The name, and address if known, of the proposed patient for whom  
38 evaluation is petitioned.
- 39 3. The present whereabouts of the proposed patient, if known.
- 40 4. A statement alleging that there is reasonable cause to believe that  
41 the proposed patient has a mental disorder and is as a result a danger to  
42 self or others, has a persistent or acute disability or a grave disability  
43 and is unwilling or unable to undergo voluntary evaluation.
- 44 5. A summary of the facts ~~which~~ THAT support the allegations that the  
45 proposed patient is dangerous, has a persistent or acute disability or a  
46 grave disability and is unwilling or unable to be voluntarily evaluated,

1 including the facts ~~which~~ THAT brought the proposed patient to the screening  
2 agency's attention.

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

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

8 1. That the opinion of the petitioner is either that the proposed  
9 patient is or is not in such a condition that without immediate or continuing  
10 hospitalization ~~he~~ THE PATIENT is likely to suffer serious physical harm or  
11 further deterioration or inflict serious physical harm ~~upon~~ ON another  
12 person.

13 2. If the opinion of the petitioner is that the proposed patient is  
14 not in the condition described in paragraph 1 of this subsection, that the  
15 opinion of the petitioner is either that the evaluation should or should not  
16 take place on an outpatient basis.

17 C. The petition for evaluation shall be accompanied by the application  
18 for evaluation, by the recommendation of the county attorney pursuant to  
19 section 36-521 and by a prepetition screening report, unless ~~such~~ THE  
20 documents have not been prepared under a provision of law or in accordance  
21 with an order of the court. The petition for evaluation shall also be  
22 accompanied by a copy of the application for emergency admission if one  
23 exists.

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

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

30 Sec. 30. Section 36-531, Arizona Revised Statutes, is amended to read:  
31 36-531. Evaluation; possible dispositions; release

32 A. A person WHO IS being evaluated on an inpatient basis in an  
33 evaluation agency shall be released if, in the opinion of the medical  
34 director of the agency, further evaluation is not appropriate unless the  
35 person ~~makes application~~ APPLIES for further care and treatment on a  
36 voluntary basis.

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

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

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

12 E. The ~~department of health services~~ ADMINISTRATION may conduct  
13 jointly with a school district, directly or indirectly, an educational  
14 evaluation pursuant to sections 15-765 and 15-766 for nonadjudicated  
15 youth. The evaluation information may be shared by and among authorized  
16 personnel employed by the ~~department of health services~~ ADMINISTRATION and  
17 the department of education, or authorized personnel from the local education  
18 agency, for purposes of ensuring the provision of special education and  
19 related services as required by the individuals with disabilities education  
20 act (20 United States Code sections 1400 through 1415).

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

22 36-535. Detention of proposed patient; time of hearing;  
23 released patient; intervention by department

24 A. If, on the filing of a petition for court-ordered treatment, the  
25 patient is not then detained in an agency, the court shall order the  
26 detention of the patient in the agency that conducted the evaluation if the  
27 court determines that the patient is likely to present a danger to self or  
28 others before the conclusion of the hearing or is not likely to appear at the  
29 hearing on the petition if not detained. The court shall issue such orders  
30 as are necessary to provide for the apprehension, transportation and  
31 detention of the proposed patient. The court shall appoint counsel for the  
32 proposed patient if one has not been previously appointed.

33 B. The court shall order the hearing to be held within six business  
34 days after the petition is filed, except that, on good cause shown, the court  
35 may continue the hearing at the request of either party. The hearing may be  
36 continued for a maximum of thirty days at the request of the proposed  
37 patient. The hearing may be continued for a maximum of three business days  
38 at the request of the petitioner. If the hearing is continued at the request  
39 of the petitioner and the proposed patient is involuntarily hospitalized, the  
40 proposed patient may request a hearing to determine whether the proposed  
41 patient should be involuntarily hospitalized during the continuation period.

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

1 D. The ~~division~~ DEPARTMENT, acting on behalf of the state hospital,  
2 THE ADMINISTRATION OR A REGIONAL BEHAVIORAL HEALTH AUTHORITY, may intervene  
3 as a party to the proceedings on any petition for court-ordered treatment and  
4 may appear as a party at the hearing on the petition by filing a written  
5 notice of intervention with the clerk of the superior court in the county in  
6 which the petition was filed, at any time before either the original time set  
7 for the hearing or the time to which the hearing is continued. The  
8 intervenor at the hearing may cross-examine any witnesses presented by other  
9 parties pursuant to section 36-539, may subpoena and present witnesses of its  
10 own, including physicians, and may present other evidence. The intervenor,  
11 on stipulation with all other parties or on order of the court, may cause  
12 physicians to personally conduct mental status examinations of the proposed  
13 patient and to testify as to their opinions concerning whether the proposed  
14 patient is, as a result of mental disorder, a danger to self or to others,  
15 OR has a persistent or acute disability or a grave disability and as to  
16 whether the proposed patient requires treatment. This subsection applies in  
17 addition to all rules of evidence, the Arizona rules of civil procedure and  
18 section 36-539.

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

21 36-540.02. Transfer of a person with a grave disability without  
22 a guardian from a mental health treatment agency  
23 to another health care facility

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

30 B. The ~~deputy~~ director, ~~with the approval of the director,~~ shall adopt  
31 rules pertaining to persons described in subsection A of this section to  
32 provide for their alternative care in another health care institution  
33 licensed by the department during the course of court-ordered treatment. The  
34 rules shall allow transfer of patients from a mental health treatment agency  
35 to another health care institution, transfer from one such institution to  
36 another and return to a mental health treatment agency.

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

39 36-541.01. Release or discharge from treatment before  
40 expiration of period ordered by court;  
41 notification of intent to release or discharge;  
42 hearing

43 A. A patient WHO IS ordered to undergo treatment pursuant to this  
44 article may be released from treatment before the expiration of the period  
45 ordered by the court if, in the opinion of the medical director of the mental  
46 health treatment agency, the patient no longer is, as a result of a mental

1 disorder, a danger to others, ~~OR~~ a danger to self, ~~OR~~ NO LONGER has a  
2 persistent or acute disability or a grave disability. A person WHO IS  
3 ordered to undergo treatment as a danger to others may not be released or  
4 discharged from treatment before the expiration of the period for treatment  
5 ordered by the court unless the medical director first gives notice of  
6 intention to do so as provided by this section.

7 B. Before the release or discharge of a patient WHO IS ordered to  
8 undergo treatment, the medical director of the mental health treatment agency  
9 shall notify the following of the medical director's intention to release or  
10 discharge the patient:

11 1. The presiding judge of the court that entered the order for  
12 treatment.

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

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

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

24 D. If the director of the mental health treatment agency is unable to  
25 determine, based on the information submitted pursuant to subsection E OF  
26 THIS SECTION, that a person who has filed a demand for notice is a victim,  
27 the director shall inform that person that that person's demand for notice is  
28 denied and that notice will not be given unless ordered by the court pursuant  
29 to subsection F OF THIS SECTION.

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

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

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

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

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

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

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

43 7. The mental health number assigned to the case by the superior  
44 court.

45 F. If the court receives a demand for notice by a relative or victim,  
46 the court shall order the medical director of the mental health treatment

1 agency not to release or discharge the patient before the expiration of the  
2 period of court-ordered treatment without first giving notice to the relative  
3 or victim as provided in subsection G OF THIS SECTION. After considering a  
4 petition for notice, if the court finds that the petitioner has a legitimate  
5 reason for receiving prior notice, the court may order the medical director  
6 of the mental health treatment agency not to release or discharge the patient  
7 from inpatient treatment before the expiration of the period of court-ordered  
8 treatment without first giving notice to the petitioner as provided in  
9 subsection G OF THIS SECTION. Any order for notice shall be delivered to the  
10 mental health treatment agency and shall be filed with the patient's clinical  
11 record. If the patient is transferred to another agency or institution, any  
12 orders for notice shall be transferred with the patient.

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

- 15 1. The name of the patient to be released or discharged.
- 16 2. The type of release or discharge.
- 17 3. The date of anticipated release or discharge. Notices shall be  
18 placed in the mail, postage prepaid and addressed to the court and to each  
19 person for whom notice has been ordered, at least ten days before the date of  
20 intended release or discharge, except THAT notice shall be sent to the  
21 prosecuting agency at least five days before the date of intended release or  
22 discharge. For purposes of computing the notice requirement, the day of  
23 mailing shall not be counted.

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

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

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

6 Sec. 34. Section 36-543, Arizona Revised Statutes, is amended to read:  
7 36-543. Release from treatment of a patient with a grave  
8 disability or a persistent or acute disability;  
9 annual review; court order for continued treatment;  
10 rules

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

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

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

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

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

4 1. The examiner's opinions as to whether the patient continues to have  
5 a grave disability or a persistent or acute disability as the result of a  
6 mental disorder and BE in need of continued court-ordered treatment. In  
7 evaluating the patient's need for continued court-ordered treatment, the  
8 examiner must consider, along with all other evidence, the patient's history  
9 before and during the current period of court-ordered treatment, the  
10 patient's compliance with recommended treatment and any other evidence  
11 relevant to the patient's ability and willingness to follow recommended  
12 treatment with or without a court order.

13 2. A statement as to whether suitable alternatives to court-ordered  
14 treatment are available.

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

16 4. A review of the patient's status as to guardianship or  
17 conservatorship, or both, the adequacy of existing protections of the patient  
18 and the continued need for guardianship or conservatorship, or both. If the  
19 examiner concludes that the patient's needs in these areas are not being  
20 adequately met, the examiner's report shall recommend that the court order an  
21 investigation into the patient's needs.

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

30 6. The results of any physical examination conducted during the period  
31 of court-ordered treatment if relevant to the psychiatric condition of the  
32 patient.

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

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

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

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

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

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

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

37           6. At a hearing held pursuant to this subsection, the court, with  
38 notice, may impose on an existing guardian additional powers pursuant to  
39 section 14-5312.01. If the court finds that the patient's needs can be  
40 adequately met by an existing guardian with the additional powers pursuant to  
41 section 14-5312.01 and that a court order for treatment is not necessary to  
42 ensure compliance with necessary treatment, the court may terminate the court  
43 order for treatment or decline to issue an order continuing court-ordered  
44 treatment. The court may also order an investigation into the need for  
45 guardianship or conservatorship, or both, and may appoint a suitable person  
46 or agency to conduct the investigation. The appointee may include a

1 court-appointed guardian ad litem, a court-appointed investigator pursuant to  
2 section 14-5308 or the public fiduciary if there is no person willing and  
3 qualified to act in that capacity. The court shall give notice of the  
4 appointment to the appointee within three days after the appointment. The  
5 appointee shall submit the report of the investigation to the court within  
6 twenty-one days. The report shall include recommendations as to who should  
7 be guardian or conservator, or both, and the findings and reasons for the  
8 recommendation. If the investigation and report so indicate, the court may  
9 authorize an appropriate person to file a petition for appointment of a  
10 guardian or conservator for the patient.

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

14 1. The patient continues to have a mental disorder and, as a result of  
15 that disorder, has either a persistent or acute disability or a grave  
16 disability.

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

18 3. The patient is either unwilling or unable to accept treatment  
19 voluntarily.

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

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

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

31 36-545.01. Payment of costs and expenses; ability to pay; power  
32 and duty of court; acceptance of other benefits;  
33 per capita cost limitation; guardians; parental  
34 liability; lien; duty of county attorney

35 A. When a patient is admitted to the state hospital for court-ordered  
36 treatment pursuant to article 5 of this chapter or pursuant to section  
37 13-3994, the business manager of the state hospital shall inquire into the  
38 ability of the patient to pay the costs of examination, maintenance and  
39 treatment. The business manager shall file with the clerk of the court a  
40 written report of the manager's findings and the basis of those findings.

41 B. If the patient is able to pay all or any portion of the charges,  
42 the court shall order the payment of the amount the patient can afford of the  
43 per capita cost for examination, treatment and maintenance as estimated by  
44 the ~~deputy director~~ SUPERINTENDENT. The court, ~~may, upon~~ ON petition of an  
45 interested person, ~~and~~ and at a hearing of which all concerned parties have

1 received notice, MAY increase or decrease the maintenance charge payable by  
2 the patient or the patient's estate.

3 C. Notwithstanding subsection B of this section, any federal, state,  
4 public or private medical benefits ~~which~~ THAT are payable to the state  
5 hospital where the patient is receiving care and treatment or ~~which~~ THAT are  
6 payable to the patient may be accepted by the state hospital without a court  
7 order, except that the state hospital shall not accept any such benefits  
8 ~~which~~ THAT alone or in addition to any amounts payable pursuant to subsection  
9 B of this section exceed the per capita cost for the patient.

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

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

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

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

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

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

37 Sec. 36. Section 36-545.05, Arizona Revised Statutes, is amended to  
38 read:

39 36-545.05. Charges for treatment by agencies under  
40 administration contract; charges for prepetition  
41 screening and court-ordered evaluation prohibited

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

45 B. When a patient is given voluntary treatment pursuant to ~~the~~  
46 ~~provisions of~~ article 3 of this chapter or court-ordered treatment pursuant

1 to ~~the provisions of~~ article 5 of this chapter, the patient or proposed  
2 patient ~~will~~ SHALL pay all or such portion of the established charges as the  
3 patient can afford. If the patient is indigent, no charges shall be made  
4 against ~~him~~ THE PATIENT.

5 Sec. 37. Section 36-545.06, Arizona Revised Statutes, is amended to  
6 read:

7 36-545.06. County services

8 A. Each county, or any combination of counties, shall provide directly  
9 or by contract the services of a screening agency and an evaluation agency  
10 for the purposes of this chapter.

11 B. ~~Upon~~ ON a request made by a resident of the county pursuant to this  
12 chapter, a county shall be required to provide screening or evaluation.

13 C. Each county shall coordinate the provision of mental health  
14 services required pursuant to this section with the ~~division of behavioral~~  
15 ~~health in the department of health services~~ ADMINISTRATION OR AS DELEGATED BY  
16 THE ADMINISTRATION TO A REGIONAL BEHAVIORAL HEALTH AUTHORITY.

17 Sec. 38. Section 36-545.07, Arizona Revised Statutes, is amended to  
18 read:

19 36-545.07. Contracts between the administration and screening  
20 agencies, evaluation agencies and mental health  
21 treatment agencies; services; plan

22 A. The ~~division, with the approval of the director,~~ ADMINISTRATION may  
23 enter into contracts with screening agencies, evaluation agencies and mental  
24 health treatment agencies to provide prepetition screenings, court-ordered  
25 evaluations, voluntary evaluations, treatment of voluntary patients and  
26 treatment of patients under ~~the provisions of~~ section 36-524 regardless of  
27 the ability of the patient or proposed patient to pay. A county may be a  
28 party to a contract as a provider of services or as a party making payments  
29 to an agency to provide services on the part of the county. The state  
30 hospital may be included in the contract as a provider of services and may  
31 receive consideration not inconsistent with law.

32 B. Contracts to provide services as in subsection A of this section  
33 shall be entered into in accordance with a plan of the ~~division, with the~~  
34 ~~approval of the director~~ ADMINISTRATION. This plan shall be developed in  
35 accordance with the state comprehensive health plan and in accordance with a  
36 plan of the local health planning agency submitted to and approved by the  
37 ~~deputy~~ director, except as provided in subsection C of this section.

38 C. If there is no recognized local health planning agency or if the  
39 local health planning agency does not submit a plan ~~which~~ THAT will, in the  
40 judgment of the ~~deputy~~ director, fulfill the requirements for services of  
41 subsection A of this section, the ~~deputy~~ director may develop a plan and  
42 require that it be followed in lieu of a plan of the local health planning  
43 agency. The plan of the ~~deputy~~ director shall be adopted after holding a  
44 hearing and fulfilling the requirements of title 41, chapter 6.

1 D. If ~~funds~~ MONIES at the disposal of the ~~division~~ ADMINISTRATION are  
2 used for services as in subsection A of this section, the contract shall  
3 conform to the requirements of section 36-189, subsection B.

4 E. A contract to provide services as in subsection A of this section  
5 shall specify the services to be provided as to their nature, quality,  
6 purpose, number, extent and limitations, if any, or any other requirements  
7 the ~~deputy director~~ ADMINISTRATION deems necessary for the proper  
8 administration of services under the plan of the ~~division~~ ADMINISTRATION.

9 F. A contract may specify that the county's participation fulfills in  
10 full or in part the requirements of the county to provide services under  
11 section 36-545.06 and the requirements of the county to pay the cost of  
12 services under section 36-545.04.

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

14 36-550. Definitions

15 In this article, unless the context otherwise requires:

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

18 ~~1.~~ 2. "Community residential treatment system" means a statewide  
19 system of community-based residential treatment programs for the seriously  
20 mentally ill ~~which~~ THAT provides a wide range of services as alternatives to  
21 institutionalization and in the least restrictive setting.

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

24 ~~3. "Division" means the division of behavioral health in the~~  
25 ~~department of health services.~~

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

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

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

38 36-550.01. Statewide plan for community residential treatment

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

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



1 establishment and maintenance of community residential treatment programs and  
2 services. If the ~~deputy~~ director contracts with a county as prescribed in  
3 subsection A of this section, the ~~deputy~~ director may require not more than a  
4 twenty-five ~~per cent~~ PERCENT match of local or other ~~funds~~ MONIES. The  
5 matching requirement for local or other ~~funds~~ MONIES may be provided by  
6 either direct funding or by in-kind services.

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

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

13 36-550.04. Evaluation system; contract requirements

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

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

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

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

28 36-550.06. Client eligibility

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

- 32 1. They voluntarily seek the services.
- 33 2. The ~~department~~ REGIONAL BEHAVIORAL HEALTH AUTHORITY receives a  
34 request for these services from a guardian who is authorized to consent to  
35 inpatient treatment pursuant to section 14-5312.01.
- 36 3. A court orders that they receive the services.
- 37 4. The chief medical officer of the Arizona state hospital recommends  
38 they receive such services.

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



1           36-2021. Definitions

2           In this chapter, unless the context otherwise requires:

3           1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT  
4 SYSTEM ADMINISTRATION.

5           ~~1-~~ 2. "Alcoholic" means a person who habitually lacks self-control  
6 with respect to the use of alcoholic beverages or who uses alcoholic  
7 beverages to the extent that ~~his~~ THE PERSON'S health is substantially  
8 impaired or endangered or ~~his~~ social or economic functions are substantially  
9 disrupted.

10          ~~2-~~ 3. "Approved private treatment facility" means a private agency  
11 meeting the standards established by the ~~division~~ DEPARTMENT and approved  
12 pursuant to sections 36-2023 and 36-2029.

13          ~~3-~~ 4. "Approved public treatment facility" means a treatment agency  
14 operating under the directions and control of a county, providing treatment  
15 through a contract with a county, meeting the standards established by the  
16 ~~division~~ DEPARTMENT and approved pursuant to sections 36-2023 and 36-2029.

17          ~~4-~~ 5. "Chronic alcoholic" means an alcoholic who is incapacitated by  
18 alcohol and who during the preceding twelve months has been admitted to a  
19 local alcoholism reception center on ten or more occasions or has been  
20 admitted for three or more episodes of inpatient or residential alcoholism  
21 treatment.

22          ~~5-~~ 6. "Court" means a court of record, a justice of the peace court,  
23 a police court or a city court authorized by charter.

24          ~~6-~~ 7. "Department" means the department of health services.

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

27          8. "Director" means the director of the ~~department of health services~~  
28 ADMINISTRATION.

29          ~~9-~~ "Division" means the division of behavioral health in the  
30 department of health services.

31          ~~10-~~ 9. "Evaluation" means A multidisciplinary professional analysis  
32 of a person's medical, psychological, social, financial and legal conditions.  
33 Persons providing evaluation services shall be properly qualified  
34 professionals and may be full-time employees of an approved treatment  
35 facility providing evaluation services or may be part-time employees or may  
36 be employed on a contractual basis.

37          ~~11-~~ 10. "Incapacitated by alcohol" means that a person as a result of  
38 the use of alcohol is unconscious or has ~~his~~ judgment otherwise so impaired  
39 that ~~he~~ THE PERSON is incapable of realizing and making a rational decision  
40 with respect to ~~his~~ THE PERSON'S need for evaluation and treatment, is unable  
41 to take care of ~~his~~ basic personal needs or safety such as food, clothing,  
42 shelter or medical care or lacks sufficient understanding or capacity to make  
43 or communicate rational decisions ~~concerning himself~~.

44          ~~12-~~ 11. "Intoxicated person" means a person whose mental or physical  
45 functioning is substantially impaired as a result of the immediate effects of  
46 alcohol in ~~his~~ THE PERSON'S system.

1 ~~13-~~ 12. "Local alcoholism reception center" or "center" means an  
2 initial reception agency for a person who is intoxicated or who is  
3 incapacitated by alcohol to receive initial evaluation and processing for  
4 assignment for further evaluation or into a treatment program.

5 ~~14-~~ 13. "Treatment" means the broad range of emergency, outpatient,  
6 intermediate and inpatient services and care, including diagnostic  
7 evaluation, medical, psychiatric, psychological and social service care,  
8 vocational rehabilitation and career counseling, which may be extended to  
9 alcoholics and intoxicated persons.

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

12 36-2022. Establishment of facilities

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

19 B. Counties may establish a public treatment facility or facilities  
20 for the evaluation and treatment of alcoholics and intoxicated persons by  
21 resolution of the board of supervisors.

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

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

26 36-2023. Rules

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

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

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

46 2. A person shall receive an initial evaluation.

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

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

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

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

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

13           1. Enlist the assistance of all public and private agencies,  
14 organizations and individuals engaged in the prevention of alcoholism and  
15 treatment of alcoholics and intoxicated persons at approved public and  
16 private facilities.

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

21           3. Cooperate with the department of education, schools, police  
22 departments, courts and other public and private agencies, organizations and  
23 individuals in establishing programs for the prevention of alcoholism and  
24 treatment of alcoholics and intoxicated persons and in preparing curriculum  
25 materials for use at all levels of school education.

26           4. Specify a uniform method for keeping statistical information by  
27 approved public and private treatment facilities and collect and make  
28 available relevant statistical information, including the number of persons  
29 treated, frequency of admission, and readmission and frequency and duration  
30 of treatment.

31           5. Cooperate with the department of transportation in establishing and  
32 conducting programs designed to deal with the problem of persons operating  
33 motor vehicles while intoxicated.

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

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

41           (b) The amount and sources of funding for each program.

42           (c) The number of clients who received services during the preceding  
43 fiscal year.

44           (d) A description of the demographic characteristics of the client  
45 population served by each program, including age groups, gender and  
46 ethnicity.

1 (e) A description of client problems addressed by the programs,  
2 including the types of substances abused.

3 (f) A summary of the numbers and types of services available and  
4 provided during the preceding fiscal year.

5 (g) An evaluation of the results achieved by the programs.

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

8 36-2024. Treatment of alcoholics

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

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

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

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

27 36-2026. Emergency admission

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

31 1. Has threatened, attempted or inflicted physical harm on self or  
32 others, and is likely to inflict physical harm on self or others unless  
33 admitted.

34 2. Is incapacitated by alcohol.

35 B. A peace officer who has reasonable cause to believe that a person  
36 is intoxicated in a public place and ~~such~~ THAT THE person is or may be a  
37 danger to self or others may transport ~~such~~ THE person to a local alcoholism  
38 reception center. Unnecessary or unreasonable force shall not be used in  
39 transporting the person, and the person shall not be subjected to any greater  
40 restraint than is necessary to transport the person to the local alcoholism  
41 reception center.

42 C. A peace officer, ~~—~~ who has reasonable cause to believe that a person  
43 is intoxicated in a public place or a place open to the public, ~~and~~ THAT the  
44 person is or may be a danger to self or others and THAT there is no  
45 responsible person immediately available to assist the intoxicated person, ~~—~~

1 may transport the person to a detention facility if both of the following  
2 ~~circumstances exist~~ APPLY:

3 1. A local alcoholism reception center or other approved facility is  
4 not available within ten miles or the peace officer has determined that the  
5 local alcoholism reception center or other approved facility is filled to  
6 capacity and has no further capacity at the present time to provide  
7 evaluation and treatment services to additional persons.

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

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

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

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

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

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

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

43 36-2028. Payment for treatment; financial ability of patient or  
44 guardian

45 A. A patient WHO IS being treated by an approved treatment facility or  
46 the estate of the patient, or a person WHO IS obligated to provide the cost

1 of the evaluation and treatment and having sufficient financial ability, is  
2 liable to the approved treatment facility for the cost of evaluation and  
3 treatment of the patient. FOR A PERSON WHO IS DETERMINED TO BE ELIGIBLE FOR  
4 COVERAGE THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, FINANCIAL  
5 LIABILITY SHALL BE ESTABLISHED in accordance with the ~~rates~~ RULES established  
6 by the ~~division~~ ADMINISTRATION.

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

13 C. Each approved treatment facility shall furnish the ~~division~~  
14 ADMINISTRATION with such information as it requires to enable it to establish  
15 and maintain a cost reporting system of the cost of the evaluation and  
16 treatment. Each approved treatment facility shall ~~insure~~ ENSURE that records  
17 are maintained containing such information and in such form as the ~~division~~  
18 ~~shall require~~ ADMINISTRATION REQUIRES for the purposes of this section.

19 D. The ~~division~~ ADMINISTRATION shall prepare and adopt patient fee  
20 schedules to be used by approved treatment facilities for services rendered  
21 to each patient WHO IS DETERMINED TO BE ELIGIBLE FOR COVERAGE THROUGH THE  
22 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AND WHO IS afflicted with  
23 alcoholism. In preparing ~~such~~ patient fee schedules, the ~~division~~  
24 ADMINISTRATION shall take into account the existing charges for available  
25 services. The ~~division~~ ADMINISTRATION is not prohibited from including the  
26 amount of expenditures for capital outlay in its determination of the fee  
27 schedules.

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

30 36-2029. Funding of facilities; contracts; limitations

31 A. The ~~division~~ ADMINISTRATION may use municipal, county, state and  
32 federal monies appropriated or otherwise available for the evaluation and  
33 treatment of alcoholics to assist in the establishment and maintenance of  
34 approved public or private treatment facilities. ~~Such~~ THE monies may be  
35 expended for professional fees for services at an approved treatment facility  
36 or in contract for advancement or reimbursement of services provided at an  
37 approved treatment facility or any other appropriate manner and may be used  
38 for any purpose necessary to provide evaluation and treatment at approved  
39 treatment facilities. These monies may not be used for ~~division~~ salaries or  
40 any other purpose within the ~~division~~ ADMINISTRATION but may be used  
41 for consultation ~~to the division~~ SERVICES in the interest of approved  
42 treatment facilities.

43 B. A public or private treatment facility providing or intending to  
44 provide evaluation and treatment and desiring to contract with the ~~division~~  
45 ADMINISTRATION for the furnishing of such services shall submit a program,  
46 plan and budget to the ~~division~~ ADMINISTRATION on the forms and in the manner

1 required by the ~~division~~ ADMINISTRATION. If such A facility is approved, the  
2 ~~division~~ ADMINISTRATION may contract with the facility for services as  
3 required and ~~upon~~ ON such terms and conditions as the ~~division shall require~~  
4 ADMINISTRATION REQUIRES.

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

9 D. An approved private or public treatment facility providing  
10 evaluation and treatment may receive state funding ~~upon~~ ON complying with the  
11 rules ~~and regulations~~ established by the ~~division~~ DEPARTMENT. Any such  
12 facility is not eligible for state funding until approved by the ~~deputy~~  
13 ~~director~~ ADMINISTRATION.

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

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

21 36-2051. Definition of federal act

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

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

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

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

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

31 36-2052. Designation of state agency

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

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

36 36-2901. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Administration" means the Arizona health care cost containment  
39 system administration.

40 2. "Administrator" means the administrator of the Arizona health care  
41 cost containment system.

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

- 1           4. "Department" means the department of economic security.
- 2           5. "Director" means the director of the Arizona health care cost  
3 containment system administration.
- 4           6. "Eligible person" means any person who is:
- 5           (a) Any of the following:
- 6           (i) Defined as mandatorily or optionally eligible pursuant to title  
7 XIX of the social security act as authorized by the state plan.
- 8           (ii) Defined in title XIX of the social security act as an eligible  
9 pregnant woman with a family income that does not exceed one hundred fifty  
10 ~~per-cent~~ PERCENT of the federal poverty guidelines, as a child under the age  
11 of six years and whose family income does not exceed one hundred thirty-three  
12 ~~per-cent~~ PERCENT of the federal poverty guidelines or as children who have  
13 not attained nineteen years of age and whose family income does not exceed  
14 one hundred thirty-three ~~per-cent~~ PERCENT of the federal poverty guidelines.
- 15           (iii) Under twenty-six years of age and who was in the custody of the  
16 department of child safety pursuant to title 8, chapter 4 when the person  
17 became eighteen years of age.
- 18           (iv) Defined as eligible pursuant to section 36-2901.01.
- 19           (v) Defined as eligible pursuant to section 36-2901.04.
- 20           (vi) Defined as eligible pursuant to section 36-2901.07.
- 21           (b) A full-time officer or employee of this state or of a city, town  
22 or school district of this state or other person who is eligible for  
23 hospitalization and medical care under title 38, chapter 4, article 4.
- 24           (c) A full-time officer or employee of any county in this state or  
25 other persons authorized by the county to participate in county medical care  
26 and hospitalization programs if the county in which such officer or employee  
27 is employed has authorized participation in the system by resolution of the  
28 county board of supervisors.
- 29           (d) An employee of a business within this state.
- 30           (e) A dependent of an officer or employee who is participating in the  
31 system.
- 32           (f) Not enrolled in the Arizona long-term care system pursuant to  
33 article 2 of this chapter.
- 34           (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and  
35 (XVI) of title XIX of the social security act and who meets the income  
36 requirements of section 36-2929.
- 37           7. "Graduate medical education" means a program, including an approved  
38 fellowship, that prepares a physician for the independent practice of  
39 medicine by providing didactic and clinical education in a medical discipline  
40 to a medical student who has completed a recognized undergraduate medical  
41 education program.
- 42           8. "Malice" means evil intent and outrageous, oppressive or  
43 intolerable conduct that creates a substantial risk of tremendous harm to  
44 others.
- 45           9. "Member" means an eligible person who enrolls in the system.

1           10. "Modified adjusted gross income" has the same meaning prescribed in  
2 42 United States Code section 1396a(e)(14).

3           11. "Noncontracting provider" means a person who provides health care  
4 to members pursuant to this article but not pursuant to a subcontract with a  
5 contractor.

6           12. "Physician" means a person licensed pursuant to title 32, chapter  
7 13 or 17.

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

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

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

14           14. "Primary care physician" means a physician who is a family  
15 practitioner, general practitioner, pediatrician, general internist, or  
16 obstetrician or gynecologist.

17           15. "Primary care practitioner" means a nurse practitioner certified  
18 pursuant to title 32, chapter 15 or a physician assistant certified pursuant  
19 to title 32, chapter 25. This paragraph does not expand the scope of  
20 practice for nurse practitioners as defined pursuant to title 32, chapter 15,  
21 or for physician assistants as defined pursuant to title 32, chapter 25.

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

24           ~~16-~~ 17. "Section 1115 waiver" means the research and demonstration  
25 waiver granted by the United States department of health and human services.

26           ~~17-~~ 18. "Special health care district" means a special health care  
27 district organized pursuant to title 48, chapter 31.

28           ~~18-~~ 19. "State plan" has the same meaning prescribed in section  
29 36-2931.

30           ~~19-~~ 20. "System" means the Arizona health care cost containment system  
31 established by this article.

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

34           36-2907. Covered health and medical services; modifications;  
35 related delivery of service requirements; definition

36           A. Subject to the limitations and exclusions specified in this  
37 section, contractors shall provide the following medically necessary health  
38 and medical services:

39           1. Inpatient hospital services that are ordinarily furnished by a  
40 hospital for the care and treatment of inpatients and that are provided under  
41 the direction of a physician or a primary care practitioner. For the  
42 purposes of this section, inpatient hospital services exclude services in an  
43 institution for tuberculosis or mental diseases unless authorized under an  
44 approved section 1115 waiver.

45           2. Outpatient health services that are ordinarily provided in  
46 hospitals, clinics, offices and other health care facilities by licensed

1 health care providers. Outpatient health services include services provided  
2 by or under the direction of a physician or a primary care practitioner.

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

5 4. Medications that are ordered on prescription by a physician or a  
6 dentist licensed pursuant to title 32, chapter 11. Persons who are dually  
7 eligible for title XVIII and title XIX services must obtain available  
8 medications through a medicare licensed or certified medicare advantage  
9 prescription drug plan, a medicare prescription drug plan or any other entity  
10 authorized by medicare to provide a medicare part D prescription drug  
11 benefit.

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

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

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

24 8. Family planning services that do not include abortion or abortion  
25 counseling. If a contractor elects not to provide family planning services,  
26 this election does not disqualify the contractor from delivering all other  
27 covered health and medical services under this chapter. In that event, the  
28 administration may contract directly with another contractor, including an  
29 outpatient surgical center or a noncontracting provider, to deliver family  
30 planning services to a member who is enrolled with the contractor that elects  
31 not to provide family planning services.

32 9. Podiatry services ordered by a primary care physician or primary  
33 care practitioner.

34 10. Nonexperimental transplants approved for title XIX reimbursement.

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

37 12. Hospice care.

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

40 1. Circumcision of newborn males is not a covered health and medical  
41 service.

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

43 (a) Outpatient health services do not include occupational therapy or  
44 speech therapy.

45 (b) Prosthetic devices do not include hearing aids, dentures,  
46 bone-anchored hearing aids or cochlear implants. Prosthetic devices, except

1 prosthetic implants, may be limited to twelve thousand five hundred dollars  
2 per contract year.

3 (c) Percussive vests and orthotics are not covered health and medical  
4 services.

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

6 (e) Podiatry services do not include services performed by a  
7 podiatrist.

8 (f) Nonexperimental transplants do not include pancreas-only  
9 transplants.

10 (g) Bariatric surgery procedures, including laparoscopic and open  
11 gastric bypass and restrictive procedures, are not covered health and medical  
12 services.

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

16 D. The director shall adopt rules necessary to limit, to the extent  
17 possible, the scope, duration and amount of services, including maximum  
18 limitations for inpatient services that are consistent with federal  
19 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.  
20 344; 42 United States Code section 1396 (1980)). To the extent possible and  
21 practicable, these rules shall provide for the prior approval of medically  
22 necessary services provided pursuant to this chapter.

23 E. The director shall make available home health services in lieu of  
24 hospitalization pursuant to contracts awarded under this article. For the  
25 purposes of this subsection, "home health services" means the provision of  
26 nursing services, home health aide services or medical supplies, equipment  
27 and appliances that are provided on a part-time or intermittent basis by a  
28 licensed home health agency within a member's residence based on the orders  
29 of a physician or a primary care practitioner. Home health agencies shall  
30 comply with the federal bonding requirements in a manner prescribed by the  
31 administration.

32 F. The director shall adopt rules for the coverage of behavioral  
33 health services for persons who are eligible under section 36-2901, paragraph  
34 6, subdivision (a). ~~The administration shall contract with the department of~~  
35 ~~health services for the delivery of all medically necessary behavioral health~~  
36 ~~services to persons who are eligible under rules adopted pursuant to this~~  
37 ~~subsection. The division of behavioral health in the department of health~~  
38 ~~services~~ THE ADMINISTRATION ACTING THROUGH THE REGIONAL BEHAVIORAL HEALTH  
39 AUTHORITIES shall establish a diagnostic and evaluation program to which  
40 other state agencies shall refer children who are not already enrolled  
41 pursuant to this chapter and who may be in need of behavioral health  
42 services. In addition to an evaluation, the ~~division of behavioral health~~  
43 ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall  
44 also identify children who may be eligible under section 36-2901, paragraph  
45 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the

1 children to the appropriate agency responsible for making the final  
2 eligibility determination.

3 G. The director shall adopt rules for the provision of transportation  
4 services and rules providing for copayment by members for transportation for  
5 other than emergency purposes. Subject to approval by the centers for  
6 medicare and medicaid services, nonemergency medical transportation shall not  
7 be provided except for stretcher vans and ambulance transportation. Prior  
8 authorization is required for transportation by stretcher van and for  
9 medically necessary ambulance transportation initiated pursuant to a  
10 physician's direction. Prior authorization is not required for medically  
11 necessary ambulance transportation services rendered to members or eligible  
12 persons initiated by dialing telephone number 911 or other designated  
13 emergency response systems.

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

19 I. If the director does not receive bids within the amounts budgeted  
20 or if at any time the amount remaining in the Arizona health care cost  
21 containment system fund is insufficient to pay for full contract services for  
22 the remainder of the contract term, the administration, on notification to  
23 system contractors at least thirty days in advance, may modify the list of  
24 services required under subsection A of this section for persons defined as  
25 eligible other than those persons defined pursuant to section 36-2901,  
26 paragraph 6, subdivision (a). The director may also suspend services or may  
27 limit categories of expense for services defined as optional pursuant to  
28 title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United  
29 States Code section 1396 (1980)) for persons defined pursuant to section  
30 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not  
31 apply to the continuity of care for persons already receiving these services.

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

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

38 1. Emergency services and specialty services provided pursuant to  
39 section 36-2908.

40 2. That the director may permit the delivery of health and medical  
41 services in other than the geographic service area in this state or in an  
42 adjoining state if the director determines that medical practice patterns  
43 justify the delivery of services or a net reduction in transportation costs  
44 can reasonably be expected. Notwithstanding the definition of physician as  
45 prescribed in section 36-2901, if services are procured from a physician or  
46 primary care practitioner in an adjoining state, the physician or primary

1 care practitioner shall be licensed to practice in that state pursuant to  
2 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or  
3 25 and shall complete a provider agreement for this state.

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

9 M. The director shall adopt rules that prescribe the coordination of  
10 medical care for persons who are eligible for system services. The rules  
11 shall include provisions for the transfer of patients, the transfer of  
12 medical records and the initiation of medical care.

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

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

17 36-2989. Covered health and medical services; modifications;  
18 related delivery of service requirements

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

21 1. Inpatient hospital services that are ordinarily furnished by a  
22 hospital for the care and treatment of inpatients, that are medically  
23 necessary and that are provided under the direction of a physician or a  
24 primary care practitioner. For the purposes of this paragraph, inpatient  
25 hospital services exclude services in an institution for tuberculosis or  
26 mental diseases unless authorized by federal law.

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

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

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

37 5. Medical supplies, equipment and prosthetic devices.

38 6. Treatment of medical conditions of the eye, including eye  
39 examinations for prescriptive lenses and the provision of prescriptive lenses  
40 for members.

41 7. Medically necessary dental services.

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

43 9. Family planning services that do not include abortion or abortion  
44 counseling. If a contractor elects not to provide family planning services,  
45 this election does not disqualify the contractor from delivering all other  
46 covered health and medical services under this article. In that event, the

1 administration may contract directly with another contractor, including an  
2 outpatient surgical center or a noncontracting provider, to deliver family  
3 planning services to a member who is enrolled with a contractor who elects  
4 not to provide family planning services.

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

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

13 12. Medically necessary emergency and nonemergency transportation.

14 13. Inpatient and outpatient behavioral health services that are the  
15 same as the least restrictive health benefits coverage plan for behavioral  
16 health services that are offered through a health care services organization  
17 for state employees under section 38-651.

18 14. Hospice care.

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

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

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

26 E. Behavioral health services shall be provided to members through the  
27 administration's ~~intergovernmental agreement with the division of behavioral~~  
28 ~~health in the department of health services~~ CONTRACTORS. The ~~division of~~  
29 ~~behavioral health in the department of health services~~ ADMINISTRATION ACTING  
30 THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES AS DEFINED IN SECTION 36-3401  
31 shall use its established diagnostic and evaluation program for referrals of  
32 children who are not already enrolled pursuant to this article and who may be  
33 in need of behavioral health services. In addition to an evaluation, the  
34 ~~division of behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL  
35 BEHAVIORAL HEALTH AUTHORITIES AS DEFINED IN SECTION 36-3401 shall also  
36 identify children who may be eligible under section 36-2901, paragraph 6,  
37 subdivision (a) or section 36-2931, paragraph 5 and shall refer the children  
38 to the appropriate agency responsible for making the final eligibility  
39 determination.

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

44 G. The director may adopt rules to allow the administration to use a  
45 second opinion procedure under which surgery may not be eligible for coverage

1 pursuant to this article without documentation as to need by at least two  
2 physicians or primary care practitioners.

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

5 1. Emergency services and specialty services.

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

15 I. Covered outpatient services shall be subcontracted by a primary  
16 care physician or primary care practitioner to other licensed health care  
17 providers to the extent practicable for purposes of making health care  
18 services available to underserved areas, reducing costs of providing medical  
19 care and reducing transportation costs.

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

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

26 Sec. 59. Heading change

27 The chapter heading of title 36, chapter 34, Arizona Revised Statutes,  
28 is changed from "DIVISION OF BEHAVIORAL HEALTH" to "BEHAVIORAL HEALTH  
29 SERVICES".

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

32 36-3401. Definitions

33 In this chapter, unless the context otherwise requires:

34 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT  
35 SYSTEM ADMINISTRATION.

36 ~~1-~~ 2. "Advisory council" means the Arizona state advisory council on  
37 the seriously mentally ill.

38 ~~2-~~ 3. "Children" means persons who are under the age of nineteen  
39 years or persons who are under the age of twenty-two years and enrolled in an  
40 educational facility.

41 ~~3-~~ 4. "Clean claim" means a claim that can be processed without  
42 obtaining additional information from the service provider or from a third  
43 party. Clean claim does not include claims under investigation for fraud or  
44 abuse or claims under review for medical necessity.

45 ~~4. "Department" means the department of health services.~~

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

3 ~~6.~~ 5. "Director" means the director of the ~~department of health~~  
4 ~~services~~ ADMINISTRATION.

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

7 ~~8.~~ 6. "Regional behavioral health authority" means an organization  
8 under contract with the ~~department~~ ADMINISTRATION to coordinate the delivery  
9 of mental health services in a geographically specific service area of the  
10 state for eligible persons.

11 ~~9.~~ 7. "Service provider" means an organization or mental health  
12 professional that meets the criteria established by the ~~department~~  
13 ADMINISTRATION and has a contract with the ~~department~~ ADMINISTRATION or a  
14 regional behavioral health authority.

15 Sec. 61. Repeal

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

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

19 36-3403. Powers and duties of the director; study; capitation  
20 rates

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

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

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

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

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

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

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

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

43 ~~8. Lease at fair market value real property currently occupied by the~~  
44 ~~southern Arizona mental health center for the purposes of operating a private~~  
45 ~~nonprofit behavioral health care facility. Monies collected from the lease~~

1 ~~of the real property shall be deposited into the building renewal fund~~  
2 ~~established pursuant to section 36-545.09.~~

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

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

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

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

9 ~~D. The superintendent of the Arizona state hospital shall be appointed~~  
10 ~~by the deputy director, subject to the approval of the director, and shall~~  
11 ~~report directly to the deputy director.~~

12 D. EXCEPT AS OTHERWISE REQUIRED BY THIS CHAPTER, THE DIRECTOR SHALL  
13 CARRY OUT THE DUTIES OF THIS CHAPTER SUBJECT TO AND CONSISTENT WITH CHAPTER  
14 29 OF THIS TITLE.

15 E. The ~~department~~ ADMINISTRATION shall contract with an independent  
16 consulting firm for an annual study of the adequacy and appropriateness of  
17 title XIX reimbursement rates to providers of behavioral health services.  
18 The ~~department~~ ADMINISTRATION may require, ~~and the department's contracted~~  
19 ~~providers~~ THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES AND SERVICE PROVIDERS  
20 shall provide, ~~financial data~~ to the ~~department~~ ADMINISTRATION FINANCIAL DATA  
21 in the format prescribed by the ~~department~~ ADMINISTRATION to assist in the  
22 study. A complete study of reimbursement rates shall be completed ~~no less~~  
23 ~~than~~ AT LEAST once every five years. The ~~department~~ ADMINISTRATION shall  
24 provide the report to the joint legislative budget committee ~~and the Arizona~~  
25 ~~health care cost containment system administration by October 1, 2002 and by~~  
26 ON OR BEFORE October 1 of each year thereafter. ~~The department shall include~~  
27 ~~the results of the study in its yearly capitation request to the Arizona~~  
28 ~~health care cost containment system administration.~~ If results of the study  
29 are not completely incorporated into the capitation rate, the ~~Arizona health~~  
30 ~~care cost containment system~~ administration shall provide a report to the  
31 joint legislative budget committee within thirty days of setting the final  
32 capitation rate, including reasons for differences between the rate and the  
33 study.

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

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

40 36-3404. Administration budget for behavioral health; funds

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

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

3 1. A proposed budget for the administration of ~~the division~~ BEHAVIORAL  
4 HEALTH SERVICES.

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

8 ~~3.~~ 2. A proposed budget for services for each behavioral health  
9 program.

10 C. The ~~deputy~~ director shall establish funds for each behavioral  
11 health program. Monies appropriated to the ~~division~~ ADMINISTRATION for these  
12 programs, ~~and grants, gifts and~~ fees generated by the ~~division,~~ PROVISION OF  
13 THESE PROGRAMS AND GRANTS AND GIFTS TO THE ADMINISTRATION shall be maintained  
14 in the appropriate fund to pay program and administrative costs. The  
15 administrative costs of each program shall be separately identified in the  
16 accounting records of the ~~division~~ ADMINISTRATION.

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

19 36-3405. Annual report; reports

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

24 B. The report required pursuant to subsection A of this section shall  
25 include revenues and expenditures for ~~the division~~ BEHAVIORAL HEALTH PROGRAMS  
26 and total revenues and expenditures, including specific identification of  
27 administrative costs for each behavioral health program by the following  
28 categories:

- 29 1. The seriously mentally ill.
- 30 2. Alcohol and drug abuse.
- 31 3. Children with severe emotional disabilities.
- 32 4. Domestic violence.

33 ~~5. The Arizona state hospital.~~

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

36 D. The director shall provide a monthly report to the governor, the  
37 speaker of the house of representatives and the president of the senate ~~which~~  
38 THAT shall, by regional behavioral health authority, separately report title  
39 XIX and nontitle XIX categories and shall include for each category the  
40 number of persons served, the units of service and the amount of funding  
41 provided for client services and the amount provided for regional behavioral  
42 health authority administration and case management expenses.

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

45 36-3406. Arizona state advisory council on the seriously  
46 mentally ill; membership; compensation; duties

- 1           A. The Arizona state advisory council on the seriously mentally ill is  
2 established.
- 3           B. The advisory council shall consist of the ~~deputy~~ director OR THE  
4 DIRECTOR'S DESIGNEE and the following nine members appointed by the governor:
- 5           1. One member representing an advocacy group for the seriously  
6 mentally ill.
- 7           2. One service provider.
- 8           3. One member representing a behavioral health contract agency in an  
9 urban area.
- 10          4. One member representing a behavioral health contract agency in a  
11 rural area.
- 12          5. One member of a county health department specializing in the  
13 delivery of services to the seriously mentally ill.
- 14          6. One health care professional who works with the seriously mentally  
15 ill and who is not associated with a contract agency providing services.
- 16          7. Three family members of persons who are seriously mentally ill.
- 17          C. The ~~deputy~~ director OR THE DIRECTOR'S DESIGNEE shall serve as  
18 chairman.
- 19          D. The advisory council shall meet at least every three months.
- 20          E. Members of the advisory council are not entitled to compensation  
21 but members appointed are entitled to reimbursement of expenses pursuant to  
22 title 38, chapter 4, article 2.
- 23          F. The ~~division~~ ADMINISTRATION shall provide necessary staff services  
24 to the advisory council.
- 25          G. The advisory council shall advise the ~~division~~ ADMINISTRATION on  
26 matters relating to the seriously mentally ill.
- 27          H. Appointed members of the advisory council shall serve staggered  
28 three-year terms.
- 29          Sec. 66. Section 36-3407, Arizona Revised Statutes, is amended to  
30 read:
- 31          36-3407. Services; contract
- 32          The ~~division~~ ADMINISTRATION shall contract for the provision of the  
33 following services relating to the seriously mentally ill:
- 34          1. Community education to increase public awareness of the needs of  
35 persons experiencing behavioral health problems.
- 36          2. Coordinated screening and intake.
- 37          3. A coordinated service delivery system.
- 38          4. Coordinated case management and individualized treatment planning  
39 for each client.
- 40          5. Ongoing family participation in the planning for and selection of  
41 continuum of care services.
- 42          6. A comprehensive continuum of care services, as appropriate for each  
43 client, ~~which shall include but not be limited to~~ THAT INCLUDES the  
44 following:
- 45           (a) Home-based services.
- 46           (b) Prevention and early intervention.

- 1 (c) Psychiatric evaluation and consultation.
- 2 (d) Ancillary support services.
- 3 (e) Crisis intervention, including short-term and mobile crisis
- 4 stabilization.
- 5 (f) Outpatient counseling.
- 6 (g) Residential treatment services.
- 7 (h) Case management.
- 8 (i) Partial care services.
- 9 (j) Secure residential treatment services.
- 10 (k) Residential treatment services for clients discharged from the
- 11 Arizona state hospital.
- 12 (l) Hospitalization services.
- 13 (m) Psychotropic medication services.
- 14 (n) Independent living services.
- 15 (o) Detoxification services.
- 16 (p) Respite care.
- 17 (q) Vocational rehabilitation.
- 18 (r) Transportation.
- 19 (s) Socialization and recreation.

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

22 36-3408. Eligibility for behavioral health service system;  
23 screening process; required information

24 A. Any person or the person's parent or legal guardian who requests  
25 behavioral health services pursuant to this chapter shall comply with a  
26 preliminary financial screening and eligibility process developed by the  
27 ~~department of health services in coordination with the~~ Arizona health care  
28 cost containment system administration and administered at the initial intake  
29 level. A person who receives behavioral health services pursuant to this  
30 chapter and who has not been determined eligible for title XVIII and for the  
31 medicare part D prescription drug benefit, title XIX or title XXI services  
32 shall comply annually with the eligibility determination process. If the  
33 results indicate that the person may be eligible for title XVIII and for the  
34 medicare part D prescription drug benefit, title XIX or title XXI, in order  
35 to continue to receive services pursuant to this chapter, the applicant shall  
36 submit a completed application within ten working days to the social security  
37 administration, the department of economic security or the Arizona health  
38 care cost containment system administration, which shall determine the  
39 applicant's eligibility pursuant to title XVIII and for the medicare part D  
40 prescription drug benefit, section 36-2901, paragraph 6, subdivision (a),  
41 section 36-2931, paragraph 5 or section 36-2981, paragraph 6 for health and  
42 medical or long-term care services pursuant to chapter 29 of this title. The  
43 applicant shall cooperate fully with the eligibility determination process.  
44 If the person is in need of emergency services provided pursuant to this  
45 chapter, the person may begin to receive these services immediately provided

1 that within five days from the date of service a financial screening is  
2 initiated.

3 B. Applicants who refuse to cooperate in the financial screening and  
4 eligibility process are not eligible for services pursuant to this chapter.  
5 A form explaining loss of benefits due to refusal to cooperate shall be  
6 signed by the applicant. Refusal to cooperate shall not be construed to mean  
7 the applicant's inability to obtain documentation required for eligibility  
8 determination. The department of economic security ~~and the Arizona health~~  
9 ~~care cost containment system administration~~ shall promptly inform the  
10 ~~department of health services~~ ADMINISTRATION of the applications that are  
11 denied based on an applicant's failure to cooperate with the eligibility  
12 determination process and, on request, of applicants who do not submit an  
13 application as required by this section.

14 C. The department of economic security, in coordination with the  
15 ~~department of health services~~ ADMINISTRATION, shall provide on-site  
16 eligibility determinations at appropriate program locations subject to  
17 legislative appropriation.

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

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

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

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

29 36-3409. Fee requirements; fee schedules

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

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

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

39 36-3410. Regional behavioral health authorities; contracts;  
40 monthly summaries; inspection; copying fee;  
41 children's behavioral health and seriously mentally  
42 ill services

43 A. If the ~~department~~ ADMINISTRATION contracts with behavioral health  
44 contractors ~~which~~ THAT would act as regional behavioral health authorities or  
45 directly with a service provider for behavioral health services, the  
46 ~~department~~ ADMINISTRATION and each behavioral health contractor or service

1 provider shall prepare and make available monthly summary statements, in a  
2 format prescribed by the ~~department~~ ADMINISTRATION, that separately detail by  
3 title XIX and nontitle XIX and by service category and service type, as  
4 defined by contract with the ~~department~~ ADMINISTRATION, the number of clients  
5 served, the units of service provided and the state and federal monies  
6 distributed through the ~~department~~ ADMINISTRATION to each regional behavioral  
7 health authority or direct contract service provider and the amounts  
8 distributed by each regional behavioral health authority or direct contract  
9 service provider to ~~their~~ ITS subcontractors. The director may require  
10 additional information in the monthly statement ~~which~~ THAT the director  
11 determines to be critical for proper regulation and oversight of the regional  
12 behavioral health authority or the direct contract service provider.

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

17 C. Except as provided in subsections D and E of this section,  
18 behavioral health contractors under contract with the ~~department~~  
19 ADMINISTRATION to act as regional behavioral health authorities may perform  
20 only managed care functions. Regional behavioral health authorities and  
21 their subsidiaries shall not deliver behavioral health services directly to  
22 clients. ~~The prohibition on regional behavioral health authorities and their~~  
23 ~~subsidiaries delivering behavioral health services directly to clients shall~~  
24 ~~be fully implemented by September 1, 2009.~~

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

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

32 2. Until the provider in question reorganizes or otherwise corrects  
33 the contract performance failure.

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

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

41 G. The summaries and the contracts on which they are based are open to  
42 public inspection. The ~~department~~ ADMINISTRATION and each regional  
43 behavioral health authority or direct contract service provider shall make  
44 the summaries available for inspection and copying at the office of each  
45 regional behavioral health authority or direct contract service provider and  
46 at the ~~department~~ ADMINISTRATION.

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

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

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

13 K. Monies appropriated ~~for fiscal year 2007-2008 and~~ each fiscal year  
14 ~~thereafter~~ for seriously mentally ill services shall be spent on services  
15 only as prescribed by the appropriation and shall not be used for any other  
16 purpose.

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

19 36-3411. Behavioral health services; timely reimbursement;  
20 penalties

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

24 B. Any contract issued by or on behalf of the ~~division~~ ADMINISTRATION  
25 for the provision of behavioral health services shall include language  
26 outlining provisions for penalties for noncompliance with contract  
27 requirements.

28 C. If the regional behavioral health authority does not reimburse a  
29 provider as required by this section, the director shall subject the regional  
30 behavioral health authority to the penalty provisions prescribed in the  
31 contract, which shall not exceed the interest charges prescribed in section  
32 44-1201. The director shall impose any financial penalties levied on the  
33 regional behavioral health authority through a reduction in the amount of  
34 ~~funds~~ MONIES payable to the regional behavioral health authority for  
35 administrative expenses.

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

38 E. The ~~department~~ ADMINISTRATION or a regional behavioral health  
39 authority shall not pay claims for covered services that are initially  
40 submitted more than nine months after the date of the services for which  
41 payment is claimed or that are submitted as clean claims more than twelve  
42 months after the date of service for which payment is claimed. A person WHO  
43 IS dissatisfied with the denial of a claim by the ~~department~~ ADMINISTRATION  
44 or by the regional behavioral health authority has twelve months from the  
45 date of the service for which payment is claimed to institute a grievance

1 against the ~~department~~ ADMINISTRATION or regional behavioral health  
2 authority.

3 F. For claims paid by the ~~department~~ ADMINISTRATION, either directly  
4 or through a third-party payor, the director may impose a penalty on a  
5 regional behavioral health authority or a service provider who submits a  
6 claim to the ~~department~~ ADMINISTRATION for payment more than one time after  
7 the same claim had been previously denied by the ~~department~~ ADMINISTRATION  
8 without having attempted to address the reason given for the denial. The  
9 penalty imposed by the director shall not exceed the average cost incurred by  
10 the ~~department~~ ADMINISTRATION for processing a claim and shall be levied on  
11 the regional behavioral health authority or service provider through reducing  
12 any future payment or payments until the amount of the penalty has been paid.

13 G. This section does not apply to services provided by a hospital  
14 pursuant to section 36-2903.01, subsection G, or section 36-2904, subsection  
15 H or I.

16 Sec. 71. Repeal

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

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

20 36-3412. Contracts; regional behavioral health authorities

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

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

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

28 2. FOR THE MAINTENANCE OF DEPOSITS, PERFORMANCE BONDS, FINANCIAL  
29 RESERVES OR OTHER FINANCIAL SECURITY.

30 3. FOR THE WITHHOLDING OR FORFEITURE OF PAYMENTS TO BE MADE TO A  
31 REGIONAL BEHAVIORAL HEALTH AUTHORITY BY THE ADMINISTRATION DUE TO THE  
32 AUTHORITY'S FAILURE TO COMPLY WITH A PROVISION OF THE AUTHORITY'S CONTRACT  
33 WITH THE ADMINISTRATION OR WITH ADOPTED RULES.

34 4. AUTHORIZING THE ADMINISTRATION TO OPERATE A REGIONAL BEHAVIORAL  
35 HEALTH AUTHORITY DIRECTLY.

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

40 D. DURING ANY PERIOD IN WHICH SERVICES ARE NEEDED AND NO CONTRACT  
41 EXISTS, THE DIRECTOR MAY EMPLOY ANY OF THE OPTIONS AUTHORIZED BY SECTION  
42 36-2904, SUBSECTION B.

43 E. IF THERE IS AN INSUFFICIENT NUMBER OF, OR AN INADEQUATE MEMBER  
44 CAPACITY IN, CONTRACTS AWARDED TO CONTRACTORS, THE DIRECTOR, IN ORDER TO  
45 DELIVER COVERED SERVICES TO MEMBERS ENROLLED OR EXPECTED TO BE ENROLLED IN

1 THE SYSTEM WITHIN A COUNTY, MAY NEGOTIATE AND AWARD WITHOUT A BID A CONTRACT  
2 PURSUANT TO SECTION 36-2904, SUBSECTION J.

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

6 G. REGIONAL BEHAVIORAL HEALTH AUTHORITIES ARE SUBJECT TO SECTION  
7 36-2905.

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

10 36-3413. Grievance and appeal process

11 A. The ~~department~~ ADMINISTRATION shall require all regional behavioral  
12 health authorities to establish and implement a grievance and appeal process  
13 for use by service providers and by individuals receiving and requesting  
14 services. The ~~department~~ ADMINISTRATION shall stipulate any required  
15 elements of the process in the request for proposal issued to solicit bids  
16 from entities that wish to become a regional behavioral health authority.

17 B. The process shall be as prescribed in title 41, chapter 6, article  
18 10, SUBJECT TO THE EXCEPTIONS IN SECTION 36-2903.01, SUBSECTION B, PARAGRAPH  
19 4 AND RULES ADOPTED BY THE DIRECTOR, for grievances and appeals filed by  
20 regional behavioral health authorities and by service providers and  
21 individuals receiving and requesting services that have already exhausted the  
22 regional behavioral health authority grievance and appeal process. In the  
23 case of individuals receiving behavioral health services by a service  
24 provider that has contracted directly with the ~~department~~ ADMINISTRATION  
25 instead of through a regional behavioral health authority, the ~~department's~~  
26 ADMINISTRATION'S grievance and appeal process is considered the primary  
27 process.

28 ~~C. For individuals who are eligible for services pursuant to chapter~~  
29 ~~29 of this title or service providers registered with the Arizona health care~~  
30 ~~cost containment system administration, the department or the regional~~  
31 ~~behavioral health authority shall provide notice that the individuals or~~  
32 ~~providers may appeal a decision rendered by the department to the Arizona~~  
33 ~~health care cost containment system administration if the disputed decision~~  
34 ~~involves services or payments authorized under chapter 29 of this title.~~

35 ~~D. Individuals who are eligible for behavioral health services~~  
36 ~~pursuant to chapter 29 of this title and who are appealing the denial,~~  
37 ~~reduction, termination or suspension of a title XIX behavioral health service~~  
38 ~~may appeal directly to the Arizona health care cost containment system for an~~  
39 ~~expedited hearing pursuant to rules adopted by the director of Arizona health~~  
40 ~~care cost containment system.~~

41 Sec. 74. Repeal

42 Section ~~36-3414~~, Arizona Revised Statutes, is repealed.

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

45 36-3415. Behavioral health expenditures; annual report

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

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

10 36-3431. Comprehensive behavioral health service system for  
11 children; administration duties

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

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

33 7. Evaluation ~~which~~ THAT determines both cost effectiveness and client  
34 outcome.

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

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

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

43 36-3432. System plan; annual report

44 The ~~division~~ ADMINISTRATION shall develop a plan for each fiscal year  
45 identifying the services, the estimated number of clients and an  
46 appropriations request for the purposes of systematic development and

1 implementation of the comprehensive behavioral health service system for  
2 children. The plan shall be presented to the speaker of the house of  
3 representatives, the president of the senate and the governor on or before  
4 November 1 of each year.

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

7 36-3433. Annual budget; request and allocation

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

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

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

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

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

21 (a) Outpatient services.

22 (b) Secure residential services for seriously emotionally disturbed  
23 children.

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

25 (d) Partial care and day treatment services.

26 (e) Emergency services, including crisis shelter, crisis stabilization  
27 and emergency inpatient hospitalization.

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

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

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

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

42 36-3434. Current service delivery system; continuation

43 Nothing in this article relieves the state department of corrections,  
44 the department of economic security, the department of child safety, the  
45 department of education, the Arizona health care cost containment system, THE

1 DEPARTMENT OF HEALTH SERVICES or the Arizona supreme court from any current  
2 responsibility as prescribed by state or federal law.

3 Sec. 80. Section 36-3435, Arizona Revised Statutes, is amended to  
4 read:

5 36-3435. Intergovernmental agreement; needs and resources  
6 assessment; funding and service delivery plan;  
7 definition

8 A. Pursuant to section 11-952, the ~~department of health services~~  
9 ADMINISTRATION, the department of child safety, the state department of  
10 corrections, the department of education and the supreme court shall enter  
11 into an intergovernmental agreement to develop a coordinated multiagency  
12 assessment of needs and resources and to develop a plan for interagency  
13 cooperation relating to funding and service delivery for children with  
14 behavioral health problems. The plan shall designate agency areas of  
15 responsibility for delivery of services. The needs and resources assessment  
16 study shall be completed within one year after the intergovernmental  
17 agreement is entered into. The funding and service delivery plan shall be  
18 completed within two years after the agreement is entered into.

19 B. The ~~department of health services~~ ADMINISTRATION shall require each  
20 contract that is awarded, renewed or amended with any regional behavioral  
21 health authority, subcontractor or service provider to specify that every  
22 reasonable effort must be made to provide services outside of regular school  
23 hours for any child who is placed in out-of-home care pursuant to title 8,  
24 chapter 4, article 8, 9, 10, 11, 12, 13 or 14.

25 C. For the purposes of this section, "services" includes appointments  
26 and activities THAT ARE not related to school.

27 Sec. 81. Section 36-3501, Arizona Revised Statutes, is amended to  
28 read:

29 36-3501. Child fatality review team; membership; duties

30 A. The child fatality review team is established in the department of  
31 health services. The team is composed of the head of the following  
32 ~~departments, agencies, councils or associations,~~ ENTITIES or that person's  
33 designee:

- 34 1. Attorney general.
- 35 2. Office of women's and children's health in the department of health  
36 services.
- 37 3. Office of planning and health status monitoring in the department  
38 of health services.
- 39 ~~4. Division of behavioral health in the department of health services.~~
- 40 4. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
- 41 5. Division of developmental disabilities in the department of  
42 economic security.
- 43 6. Department of child safety.
- 44 7. Governor's office for children.
- 45 8. Administrative office of the courts.
- 46 9. Parent assistance office of the supreme court.

- 1           10. Department of juvenile corrections.
- 2           11. Arizona chapter of a national pediatric society.
- 3           B. The director of the department of health services shall appoint the
- 4 following members to serve staggered three-year terms:
- 5           1. A medical examiner who is a forensic pathologist.
- 6           2. A maternal and child health specialist involved with the treatment
- 7 of native Americans.
- 8           3. A representative of a private nonprofit organization of tribal
- 9 governments in this state.
- 10          4. A representative of the Navajo tribe.
- 11          5. A representative of the United States military family advocacy
- 12 program.
- 13          6. A representative of a statewide prosecuting attorneys advisory
- 14 council.
- 15          7. A representative of a statewide law enforcement officers advisory
- 16 council who is experienced in child homicide investigations.
- 17          8. A representative of an association of county health officers.
- 18          9. A child advocate who is not employed by or an officer of this state
- 19 or a political subdivision of this state.
- 20          10. A public member. If local teams are formed pursuant to this
- 21 article, the director of the department of health services shall select this
- 22 member from one of those local teams.
- 23          C. The team shall:
- 24           1. Develop a child fatalities data collection system.
- 25           2. Provide training to cooperating agencies, individuals and local
- 26 child fatality review teams on the use of the child fatalities data system.
- 27           3. Conduct an annual statistical report on the incidence and causes of
- 28 child fatalities in this state during the past fiscal year and submit a copy
- 29 of this report, including its recommendations for action, to the governor,
- 30 the president of the senate and the speaker of the house of representatives
- 31 on or before November 15 of each year.
- 32           4. Encourage and assist in the development of local child fatality
- 33 review teams.
- 34           5. Develop standards and protocols for local child fatality review
- 35 teams and provide training and technical assistance to these teams.
- 36           6. Develop protocols for child fatality investigations, including
- 37 protocols for law enforcement agencies, prosecutors, medical examiners,
- 38 health care facilities and social service agencies.
- 39           7. Study the adequacy of statutes, ordinances, rules, training and
- 40 services to determine what changes are needed to decrease the incidence of
- 41 preventable child fatalities and, as appropriate, take steps to implement
- 42 these changes.
- 43           8. Provide case consultation on individual cases to local teams if
- 44 requested.
- 45           9. Educate the public regarding the incidence and causes of child
- 46 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  
45 works entered into pursuant to section 28-7314, subsection A, paragraph 5.  
46 All other procurement shall be as prescribed by this chapter.

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

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

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

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

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

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

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

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

25 4. With an eligible entity as defined by Public Law 105-285, section  
26 ~~673(1)(a)(i)~~ 673(1)(A)(i), as amended, for designated community services  
27 block grant program monies and any other monies given to the eligible entity  
28 that accomplishes the purpose of Public Law 105-285, section 672.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40           ~~BB.~~ CC. The motor vehicle division of the department of  
41 transportation is exempt from this chapter for third-party authorizations  
42 pursuant to title 28, chapter 13, only if all of the following conditions  
43 exist:

44           1. The division does not pay any public monies to an authorized third  
45 party.

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

1           3. The director has complied with the requirements prescribed in title  
2 28, chapter 13 in selecting an authorized third party.

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

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

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

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

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

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

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

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

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

34           ~~LL.~~ MM. This chapter does not apply to contracts for credit reporting  
35 services.

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

38           1. With a provider of family foster care pursuant to section 8-503 or  
39 36-554.

40           2. With an eligible entity as defined by Public Law 105-285, section  
41 673(1)(A)(i), as amended, for designated community services block grant  
42 program monies and any other monies given to the eligible entity that  
43 accomplishes the purpose of Public Law 105-285, section 672.

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

46           41-3803. Human rights committee on the mentally ill

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

5 B. Each region of the state covered by a regional behavioral health  
6 authority shall have at least one human rights committee with the authority  
7 and responsibilities as prescribed by the ~~department of health services~~  
8 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant to rules  
9 adopted by the ~~department~~ ADMINISTRATION relating to behavioral health  
10 services.

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

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

- 19 1. Psychology.
- 20 2. Law.
- 21 3. Medicine.
- 22 4. Education.
- 23 5. Special education.
- 24 6. Social work.

25 E. Each human rights committee shall include at least two parents of  
26 children who receive behavioral health services pursuant to title 36, chapter  
27 34.

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

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

32 Sec. 84. Section 41-3804, Arizona Revised Statutes, is amended to  
33 read:

34 41-3804. Human rights committees; membership; duties; client  
35 information; violation; classification

36 A. Subject to the approval of the appropriate department director,  
37 each committee established pursuant to this article shall adopt guidelines  
38 that govern its operation, including terms of members, quorum and attendance  
39 requirements and removal of a committee member if necessary. Each committee  
40 shall adopt these guidelines by majority vote within the first three months  
41 of its formation. These guidelines shall not conflict with this article.  
42 The director of the appropriate department shall approve the guidelines  
43 unless they are inconsistent with the department's statutes, policies,  
44 procedures or rules, or if the ~~guideline does~~ GUIDELINES DO not promote  
45 participation by all interested members of the community that the committee  
46 serves. In addition to the procedures in the guidelines, each human rights

1 committee must approve the removal of any committee member on majority vote  
2 of the committee.

3 B. Employees of the department of economic security, the department of  
4 child safety and the ~~department of health services~~ ARIZONA HEALTH CARE COST  
5 CONTAINMENT SYSTEM may serve on a committee only as nonvoting members whose  
6 presence is not counted for the purpose of determining a quorum.

7 C. Advocacy groups, local advisory councils, committee members and the  
8 director of the appropriate department may submit names of candidates to fill  
9 committee vacancies. The appropriate director shall appoint a person to fill  
10 a vacancy subject to the approval of the committee.

11 D. Each committee shall meet at least quarterly each calendar year.

12 E. Each committee shall provide independent oversight to:

- 13 1. Ensure that the rights of clients are protected.  
14 2. Provide research in that committee's field.  
15 3. Review incidents of possible abuse, neglect or denial of a client's  
16 rights.

17 F. Each committee shall submit written objections to specific problems  
18 or violations of client rights by department employees or service providers  
19 to the director of the appropriate department for review.

20 G. Each committee shall issue an annual report of its activities and  
21 recommendations for changes to the director of the appropriate department.

22 H. A committee may request from the appropriate department the  
23 services of a consultant or department employee to advise it on specific  
24 issues. The consultant may be a member of another human rights committee, a  
25 department employee or a service provider. Subject to the availability of  
26 monies, the appropriate department shall assume the cost of the consultant.  
27 A consultant shall not participate in committee votes.

28 I. Subject to federal law, committee members and consultants have  
29 access to client information and records maintained by the appropriate  
30 department, provider or regional behavioral health authorities to the extent  
31 necessary to conduct committee duties. Each person who receives information  
32 or records pursuant to this subsection shall maintain the information or  
33 records as confidential and sign an agreement to comply with all  
34 confidentiality requirements. Any client information or records shall be  
35 released to the committee without the designation of personally identifiable  
36 information unless the personally identifiable information is required for  
37 the official purposes of the committee. A VIOLATION OF THIS SUBSECTION IS A  
38 CLASS 2 MISDEMEANOR. FOR THE PURPOSES OF THIS SUBSECTION, "personally  
39 identifiable information" includes A PERSON'S name, address, date of birth,  
40 social security number, tribal enrollment number, telephone or telefacsimile  
41 number, driver license number, places of employment or school identification  
42 or military identification number or any other distinguishing characteristic  
43 that tends to identify a particular person. ~~A violation of this subsection  
44 is a class 2 misdemeanor.~~

45 J. If a committee's request for information or records from a  
46 department is denied, the committee may request in writing that the director

1 of the appropriate department review this decision. The agency director or  
2 designee shall conduct the review within five business days after receiving  
3 the request for review. The agency shall bear the costs of conducting the  
4 review. A final agency decision made pursuant to this subsection is subject  
5 to judicial review pursuant to title 12, chapter 7, article 6. The agency  
6 shall not release any information or records during the period an appeal may  
7 be filed or is pending.

8 K. Confidential records and information received by the committee or  
9 its consultant are subject to the same provisions concerning subpoenas,  
10 discovery and use in legal actions as are the original records and  
11 information.

12 L. Any person who, in good faith and without malice and in connection  
13 with duties or functions of a committee established pursuant to this article,  
14 takes an action or makes a decision or recommendation as a member or agent of  
15 a committee or who furnishes records, information or assistance that is  
16 related to the duties of a committee is not subject to liability for civil  
17 damages in consequence of that action. The court shall determine the  
18 presence of malice by clear and convincing evidence.

19 Sec. 85. Section 41-3955.01, Arizona Revised Statutes, is amended to  
20 read:

21 41-3955.01. Seriously mentally ill housing trust fund; purpose;  
22 report

23 A. The seriously mentally ill housing trust fund is established. The  
24 director of the ~~department of health services~~ ARIZONA HEALTH CARE COST  
25 CONTAINMENT SYSTEM ADMINISTRATION shall administer the fund. The fund  
26 consists of monies received pursuant to section 44-313 and investment  
27 earnings.

28 B. On notice from the ~~department of health services~~ DIRECTOR OF THE  
29 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, the state  
30 treasurer shall invest and divest monies in the fund as provided by section  
31 35-313, and monies earned from investment shall be credited to the fund.

32 C. Fund monies shall be spent on approval of the ~~department of health~~  
33 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION solely  
34 for housing projects for the seriously mentally ill.

35 D. The director of the ~~department of health services~~ ARIZONA HEALTH  
36 CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall report annually to the  
37 legislature on the status of the seriously mentally ill housing trust fund.  
38 The report shall include a summary of facilities for which funding was  
39 provided during the preceding fiscal year and shall show the cost and  
40 geographic location of each facility and the number of individuals benefiting  
41 from the operation, construction or renovation of the facility. The report  
42 shall be submitted to the president of the senate and the speaker of the  
43 house of representatives no later than September 1 of each year.

44 E. Monies in the seriously mentally ill housing trust fund are exempt  
45 from the provisions of section 35-190 relating to lapsing of appropriations.

1 F. An amount not to exceed ten ~~per-cent~~ PERCENT of the seriously  
2 mentally ill housing trust fund monies may be appropriated annually by the  
3 legislature to the ~~department of health services~~ ARIZONA HEALTH CARE COST  
4 CONTAINMENT SYSTEM for administrative costs in providing services relating to  
5 the seriously mentally ill housing trust fund.

6 G. For any construction project financed by the ~~department of health~~  
7 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant  
8 to this section, the ~~department of health services~~ ADMINISTRATION shall  
9 notify a city, town, county or tribal government that a project is planned  
10 for its jurisdiction and, before proceeding, shall seek comment from the  
11 governing body of the city, town, county or tribal government or an official  
12 authorized by the governing body of the city, town, county or tribal  
13 government. The ~~department of health services~~ ARIZONA HEALTH CARE COST  
14 CONTAINMENT SYSTEM ADMINISTRATION shall not interfere with or attempt to  
15 override the local jurisdiction's planning, zoning or land use regulations.

16 Sec. 86. Report

17 On or before November 15, 2015, the Arizona health care cost  
18 containment system and the department of health services shall submit a joint  
19 report for review by the joint legislative budget committee and the  
20 governor's office of strategic planning and budgeting that details the  
21 transfer of resources between the two departments pursuant to Laws 2015,  
22 chapter 19, section 9.

23 Sec. 87. Effective date

24 This act is effective from and after June 30, 2016.

APPROVED BY THE GOVERNOR APRIL 6, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2015.