

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1257

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

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

1 the integration of the system at the same funding amount, except for the
2 funding for court-ordered screening and evaluation pursuant to title 36,
3 chapter 5, article 4.

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

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

12 Sec. 3. Section 15-765, Arizona Revised Statutes, is amended to read:
13 15-765. Special education in rehabilitation, corrective or other
14 state and county supported institutions, facilities or
15 homes

16 A. For the purposes of this section and section 15-764, children with
17 disabilities who are being provided with special education in rehabilitation,
18 corrective or other state and county supported institutions or facilities are
19 the responsibility of that institution or facility, including children with
20 disabilities who are not enrolled in a residential program and who are being
21 furnished with daily transportation. Special education programs at the
22 institution or facility shall conform to the conditions and standards
23 prescribed by the director of the division of special education.

24 B. Notwithstanding subsection A of this section, the department of
25 economic security, the department of child safety or the ~~department of health~~
26 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may request on behalf of
27 a school-age child with a disability residing in a residential facility or
28 foster home operated or supported by the department of economic security, the
29 department of child safety or the ~~department of health services~~ ARIZONA
30 HEALTH CARE COST CONTAINMENT SYSTEM that the school district in which the
31 facility or home is located enroll the school-age child in the district,
32 subject to section 15-825. The school district, on the request by the

1 department of economic security, the department of child safety or the
2 ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM,
3 shall enroll the child and provide any necessary special education and
4 related services, subject to section 15-766. A school district in which a
5 child with a disability is enrolled shall coordinate the development of an
6 individualized education program with the development of an individual
7 program or treatment plan. The provision of special education and related
8 services to a child with a disability may be subject to subsection D of this
9 section.

10 C. Before any placement is made in facilities described in this
11 section, the school district of residence shall ensure that a full continuum
12 of alternative placements is available to meet the needs of children with
13 disabilities and that the proposed placement is the least restrictive
14 environment in which appropriate education services can be provided to the
15 child.

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

31 1. If the child is placed in a private special education program, the
32 chief administrative official of the school district or county or other

1 person designated by the school district or county as responsible for special
2 education shall verify that the pupil is diagnosed with an emotional
3 disability as defined in section 15-761, that no appropriate program exists
4 within the school district or county, as applicable, and that no program can
5 feasibly be instituted by the school district or county, as applicable.

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

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

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

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

1 1. A residential special education voucher application signed by
2 designated representatives of the state placing agency, as defined in section
3 15-1181, and the home school district, respectively.

4 2. The educational reasons for recommending the residential special
5 education placement, including an evaluation or addendum to the evaluation
6 that describes the instructional and behavioral interventions that were
7 previously attempted and the educational reasons for recommending the
8 residential special education placement, including documentation that the
9 nature or severity of the disability is such that education in a less
10 restrictive environment is not appropriate.

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

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

14 H. If a residential special education placement is required by the
15 child's individualized education program, the educational component of the
16 residential facility shall be one that is approved by the department of
17 education for the specific special education services required.

18 I. The residential component of the facility in which the residential
19 special education placement is made shall be licensed by the department of
20 economic security, the department of child safety or the department of health
21 services, whichever is appropriate.

22 J. Following and in accordance with the consensus decision of the
23 individualized education program team as prescribed in section 15-766, a
24 residential special education placement shall be made by the school district
25 and the appropriate state agency. The individualized education program team
26 shall determine whether a residential special education placement is
27 necessary. The state placing agency shall consider the recommendations of
28 the individualized education program team in selecting the specific
29 residential facility. The department of education shall enter into
30 interagency services agreements with the department of economic security, the
31 department of child safety or the ~~department of health services~~ ARIZONA
32 HEALTH CARE COST CONTAINMENT SYSTEM to establish a mechanism for resolving

1 disputes if the school district and the department of economic security, the
2 department of child safety or the ~~department of health services~~ ARIZONA
3 HEALTH CARE COST CONTAINMENT SYSTEM cannot mutually agree on the specific
4 residential placement to be made. Dispute resolution procedures may not be
5 used to deny or delay residential special education placement.

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

10 L. All noneducational and nonmedical costs incurred by the placement
11 of a child with a disability in a private or public school program and
12 concurrent out-of-home care program shall be paid by the department of
13 economic security for those children eligible to receive services through the
14 division of developmental disabilities, by the department of child safety for
15 the children for which it has legal responsibility and by the ~~department of~~
16 ~~health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM for those
17 children eligible to receive BEHAVIORAL HEALTH OR CHILDREN'S REHABILITATION
18 services through the ~~division of behavioral health in the department of~~
19 ~~health services or children's rehabilitation services~~ ARIZONA HEALTH CARE
20 COST CONTAINMENT SYSTEM ADMINISTRATION. This section does not prevent or
21 limit the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT
22 SYSTEM, the department of child safety and the department of economic
23 security from joint case management of any child who qualifies for services
24 from two or more of these agencies or from sharing the noneducational costs
25 of providing those services. The educational costs incurred by the placement
26 of a child with a disability in an out-of-home care facility shall be paid as
27 follows:

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

31 2. Through an initial or continuing residential education voucher if a
32 child is placed in a private residential facility by a state placing agency,

1 as defined in section 15-1181, for care, treatment and safety reasons and the
2 child needs educational services while in that placement.

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

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

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

31 N. If appropriate services are offered by the school district and the
32 parent or the child chooses for the child to attend a private facility,

1 either for day care or for twenty-four-hour care, neither the school district
2 nor the respective agency is obligated to assume the cost of the private
3 facility. If residential twenty-four-hour care is necessitated by factors
4 such as the child's home condition and is not related to the special
5 educational needs of the child, the agency responsible for the care of the
6 child is not required to pay any additional costs of room and board and
7 nonmedical expenses pursuant to this section.

8 Sec. 4. Section 15-1181, Arizona Revised Statutes, is amended to read:
9 15-1181. Definitions

10 In this article, unless the context otherwise requires:

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

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

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

19 4. "Home school district" has the same meaning prescribed in section
20 15-761.

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

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

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

1 becoming addicted to the excessive use of alcohol or other drugs and
2 consultative services to relatives or other persons concerned with the care
3 of persons addicted to the excessive use of alcohol or other drugs, in
4 addition to detecting, counseling, referring, caring for and training those
5 afflicted.

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

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

12 ~~36-189.~~ State participation in establishment and maintenance of
13 local health departments and local health services

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

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

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

16 36-201. Definitions

17 In this article, unless the context otherwise requires:

18 1. "Chief medical officer" means the chief medical officer of the
19 state hospital.

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

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

23 ~~4.~~ 3. "Director" means the director of the department of health
24 services.

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

27 ~~6.~~ 4. "Employee" means an officer or employee of the state hospital.

28 ~~7.~~ 5. "State hospital" means Arizona state hospital.

29 ~~8.~~ 6. "Superintendent" means the superintendent of the state
30 hospital.

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

2 36-203. Persons with intellectual disabilities assigned to state
3 hospital; department duties

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

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

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

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

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

2 36-204. Duties of director

3 The ~~deputy~~ director shall:

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

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

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

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

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

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

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

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

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

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

27 D. The superintendent shall have the following qualifications:

28 1. Administrative experience in the private sector.

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

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

1 E. The superintendent, with the approval of the ~~deputy~~ director, shall
2 appoint a chief medical officer of the state hospital who is a physician and
3 who is licensed pursuant to title 32, chapter 13 or 17. The chief medical
4 officer shall have not less than three years' experience in the treatment of
5 psychiatric disorders and shall be board-certified in psychiatry by the board
6 of psychiatry and neurology. The chief medical officer is eligible for
7 compensation pursuant to section 38-611. The chief medical officer is
8 responsible for the clinical administration of the hospital and shall report
9 directly to the superintendent.

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

11 36-206. Duties of superintendent; clinical assessment

12 A. The ~~deputy~~ director has charge of the state hospital and the
13 superintendent shall supervise and direct its activities, subject to the
14 provisions of law and approval of the ~~deputy~~ director. The superintendent is
15 directly responsible to the ~~deputy~~ director for carrying out the purposes for
16 which the hospital is maintained. Subject to the approval of the ~~deputy~~
17 director, the superintendent may deputize any qualified officer of the state
18 hospital to do or perform any act the superintendent is empowered to do or
19 charged with the responsibility of doing by law.

20 B. The ~~deputy-director~~ SUPERINTENDENT in December each year shall
21 estimate the probable daily per capita cost of treatment and maintenance of
22 each category of patients for the next ensuing year as determined in
23 accordance with standard accounting practices. A statement of the estimate
24 shall be provided to the director in January of the following year.

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

27 D. On or before August 1 of each year, the ~~deputy~~ director shall
28 establish maximum funded capacity and a percentage allocation formula for
29 forensic and civil bed capacity at the Arizona state hospital based on census
30 data collected pursuant to sections 13-3994, 13-4512, 36-202.01 and
31 36-503.03. By June 1 of each year, the ~~deputy~~ director shall solicit and
32 consider the recommendations of representatives of the county board of

1 supervisors, the Arizona prosecuting attorneys' advisory council and the
2 superior court when establishing this formula. In addition to establishing
3 the formula, the ~~deputy~~ director, the county board of supervisors, the
4 Arizona prosecuting attorneys' advisory council and the superior court shall
5 develop a contingency plan for the placement of patients subject to sections
6 13-3994, 13-4512, 36-202.01 and 36-503.03 in times of emergency and other
7 unforeseen circumstances. The ~~deputy~~ director shall notify the governor, the
8 president of the senate, the speaker of the house of representatives and the
9 chairman of each county board of supervisors of the funded capacity and
10 allocation formula for the current fiscal year. Thirty days before the
11 notification of the forensic and civil bed funded capacity formula, the
12 ~~deputy~~ director shall provide this information to the representatives of the
13 county board of supervisors, the Arizona prosecuting attorneys' advisory
14 council and the superior court for comment. The ~~deputy~~ director shall
15 include these comments when issuing the formula.

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

17 36-208. Employees; compensation

18 A. Except as otherwise provided by this article, the ~~deputy~~ director
19 shall employ all employees of the state hospital. The ~~deputy~~ director may
20 employ necessary medical consultants ~~upon~~ ON recommendation of the
21 superintendent. The ~~deputy~~ director may permit members of the medical staff
22 to act as consultants in psychiatry.

23 B. Subject to the laws of this state governing state personnel
24 administration, the superintendent may discharge an employee for cause. An
25 employee so discharged ~~may~~, ~~upon~~ ON request, MAY have the reasons for ~~his~~ THE
26 discharge reviewed and determined by the ~~deputy~~ director. The superintendent
27 shall file a written report with the ~~deputy~~ director of each discharge
28 setting forth the reasons ~~therefor~~ FOR THE DISCHARGE.

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

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

2 36-209. Reports by superintendent and director

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

6 1. The number of patients received, conditionally discharged and
7 discharged and voluntary patients treated.

8 2. Methods of treatment used and the results.

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

13 4. Census data for treatment programs pursuant to sections 13-3994,
14 13-4512, 36-202.01 and 36-503.03.

15 5. A complete employment and personnel record.

16 6. The condition of existing equipment.

17 7. Recommendations for improvement of the institution.

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

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

24 1. The amounts appropriated for the current fiscal year for operation,
25 maintenance and improvement.

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

27 3. The balance on hand.

28 4. The estimated expenditures for the current month.

29 5. An inventory report.

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

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

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

9 1. An account of the work done.

10 2. Recommendations for improvements.

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

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

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

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

22 **36-210. Expenditures**

23 A. This article does not give the director or any employee authority
24 to create a debt or obligation in excess of the amount appropriated by the
25 legislature to carry out its provisions. If monies are not appropriated to
26 carry out the purpose of this article, the director shall submit
27 recommendations to the legislature, with a statement of the cost when an
28 improvement is requested.

29 B. Except as provided by subsection D of this section, the director of
30 the department of administration shall not issue a warrant for expenditures
31 by the state hospital in excess of the estimate contained in the monthly
32 financial statement unless the superintendent submits a written request that

1 is approved in writing by the ~~deputy~~ director OF THE DEPARTMENT OF HEALTH
2 SERVICES and that states the reasons for the request. The director of the
3 department of administration shall not issue warrants in excess of the amount
4 available for the current quarter.

5 C. If a patient in the state hospital requires a health care service
6 that the state hospital or a facility or provider contracted by the state
7 hospital cannot provide, the department of health services shall pay approved
8 claims from a facility or provider that provides these required services as
9 follows:

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

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

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

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

22 36-212. Maximum security area required

23 The superintendent, under the direction of the ~~deputy~~ director, shall
24 equip, staff and supervise the operation of an area consisting of one or more
25 separate buildings on the state hospital grounds in Phoenix to be designated
26 a maximum security area. The superintendent shall designate which patients
27 shall be confined within a maximum security area, ~~Such area~~ WHICH shall be
28 equipped, staffed and maintained in order to provide treatment and necessary
29 supervision to prevent the patients from leaving ~~such~~ THE area without
30 authorization.

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

2 36-213. Store and canteen: deposit

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

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

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

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

25 36-216. Budget for state hospital

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

30 B. THE BUDGET REQUEST PRESENTED PURSUANT TO SUBSECTION A OF THIS
31 SECTION SHALL INCLUDE A PROPOSED BUDGET FOR THE STATE HOSPITAL, WITH A

1 SPECIFIC AMOUNT OF THE TOTAL BUDGET ESTIMATED TO BE USED FOR PATIENTS WHO ARE
2 SERIOUSLY MENTALLY ILL.

3 C. MONIES APPROPRIATED TO THE DEPARTMENT FOR THE STATE HOSPITAL
4 PROGRAMS, FEES GENERATED BY THE DEPARTMENT FOR THESE PROGRAMS AND GRANTS AND
5 GIFTS TO THE DEPARTMENT SHALL BE MAINTAINED IN THE APPROPRIATE FUND TO PAY
6 PROGRAM AND ADMINISTRATIVE COSTS. THE ADMINISTRATIVE COSTS OF EACH PROGRAM
7 SHALL BE SEPARATELY IDENTIFIED IN THE ACCOUNTING RECORDS OF THE DEPARTMENT.

8 36-217. State hospital annual report

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

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

17 36-501. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
20 SYSTEM ADMINISTRATION.

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

26 ~~2.~~ 3. "Chief medical officer" means the chief medical officer under
27 the supervision of the superintendent of the state hospital.

28 ~~3.~~ 4. "Contraindicated" means that access is reasonably likely to
29 endanger the life or physical safety of the patient or another person.

30 ~~4.~~ 5. "Court" means the superior court in the county in this state in
31 which the patient resides or was found before screening or emergency
32 admission under this title.

1 ~~5.~~ 6. "Danger to others" means that the judgment of a person who has
2 a mental disorder is so impaired that the person is unable to understand the
3 person's need for treatment and as a result of the person's mental disorder
4 the person's continued behavior can reasonably be expected, on the basis of
5 competent medical opinion, to result in serious physical harm.

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

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

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

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

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

17 ~~7.~~ 8. "Department" means the department of health services.

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

20 9. "Detention" means the taking into custody of a patient or proposed
21 patient.

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

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

25 ~~12.~~ 11. "Evaluation" means:

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

31 (i) Two licensed physicians, who shall be qualified psychiatrists, if
32 possible, or at least experienced in psychiatric matters, and who shall

1 examine and report their findings independently. The person against whom a
2 petition has been filed shall be notified that the person may select one of
3 the physicians. A psychiatric resident in a training program approved by the
4 American medical association or by the American osteopathic association may
5 examine the person in place of one of the psychiatrists if the resident is
6 supervised in the examination and preparation of the affidavit and testimony
7 in court by a qualified psychiatrist appointed to assist in the resident's
8 training, and if the supervising psychiatrist is available for discussion
9 with the attorneys for all parties and for court appearance and testimony if
10 requested by the court or any of the attorneys.

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) Licensed in this state.

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

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

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

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

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

12 (b) The declining mental abilities that directly accompany impending
13 death.

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

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

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

24 27. "Outpatient treatment" or "combined inpatient and outpatient
25 treatment" means any treatment program not requiring continuous inpatient
26 hospitalization.

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

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

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

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

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

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

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

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

19 ~~33.~~ 32. "Prepetition screening" means the review of each application
20 requesting court-ordered evaluation, including an investigation of facts
21 alleged in such application, an interview with each applicant and an
22 interview, if possible, with the proposed patient. The purpose of the
23 interview with the proposed patient is to assess the problem, explain the
24 application and, when indicated, attempt to persuade the proposed patient to
25 receive, on a voluntary basis, evaluation or other services.

26 ~~34.~~ 33. "Prescribed form" means a form established by a court or the
27 rules of the ~~division that have been approved by the director or~~
28 ADMINISTRATION in accordance with the laws of this state.

29 ~~35.~~ 34. "Professional" means a physician who is licensed pursuant to
30 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title
31 32, chapter 19.1 or a psychiatric and mental health nurse practitioner who is
32 certified pursuant to title 32, chapter 15.

1 ~~36.~~ 35. "Proposed patient" means a person for whom an application for
2 evaluation has been made or a petition for court-ordered evaluation has been
3 filed.

4 ~~37.~~ 36. "Psychiatric and mental health nurse practitioner" means a
5 registered nurse practitioner as defined in section 32-1601 who has completed
6 an adult or family psychiatric and mental health nurse practitioner program
7 and who is certified as an adult or family psychiatric and mental health
8 nurse practitioner by the state board of nursing.

9 ~~38.~~ 37. "Psychiatrist" means a licensed physician who has completed
10 three years of graduate training in psychiatry in a program approved by the
11 American medical association or the American osteopathic association.

12 ~~39.~~ 38. "Psychologist" means a person who is licensed under title 32,
13 chapter 19.1 and who is experienced in the practice of clinical psychology.

14 ~~40.~~ 39. "Records" means all communications that are recorded in any
15 form or medium and that relate to patient examination, evaluation or
16 behavioral or mental health treatment. Records include medical records that
17 are prepared by a health care provider or other providers. Records do not
18 include:

19 (a) Materials that are prepared in connection with utilization review,
20 peer review or quality assurance activities, including records that a health
21 care provider prepares pursuant to section 36-441, 36-445, 36-2402 or
22 36-2917.

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

26 ~~41.~~ 40. "Screening agency" means a health care agency that is
27 licensed by the department and that provides those services required of such
28 agency by this chapter.

29 ~~42.~~ 41. "Social worker" means a person who has completed two years of
30 graduate training in social work in a program approved by the council of
31 social work education and who has experience in mental health.

32 ~~43.~~ 42. "State hospital" means the Arizona state hospital.

1 ~~44.~~ 43. "Superintendent" means the superintendent of the state
2 hospital.

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

4 36-502. Powers and duties of the director of AHCCCS; rules;
5 expenditure limitation

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

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

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

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

1 Revised Statutes, as repealed by subsection A of this section, are
2 transferred to the state general fund on the effective date of this section.

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

4 36-504. Notice of patients' rights; notification to family

5 A. Every person undergoing treatment or evaluation pursuant to this
6 chapter is entitled to the rights set forth in this chapter and to rights
7 that the ~~deputy~~ director, ~~with the approval of the director~~, specifies by
8 rule. A list of patients' rights as required by this chapter and by the
9 ~~division~~ ADMINISTRATION shall be compiled and published by the ~~deputy~~
10 director, ~~with the approval of the director~~, by rule. The list shall be
11 prominently posted in English and Spanish in all facilities providing
12 evaluation or treatment. A patient's rights shall otherwise be brought to
13 the attention of the patient as this chapter requires or the ~~deputy~~
14 director, ~~with the approval of the director~~, may direct by rule.

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

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

30 36-511. Quality of treatment

31 A. Subject to ~~his~~ THE right to refuse psychiatric and medical
32 treatment pursuant to sections 36-512 and 36-513 and pursuant to rules of the

1 ~~division~~ ADMINISTRATION, every person undergoing evaluation or treatment
2 pursuant to this chapter shall receive physical and psychiatric care and
3 treatment, delivered in a manner that allows the person's family members or
4 guardian to participate in ~~his~~ THE care and treatment when appropriate, for
5 the full period ~~he~~ THE PERSON is detained. The agency providing care and
6 treatment shall keep a clinical record for each person ~~which~~ THAT details all
7 medical and psychiatric evaluations and all care and treatment received by
8 the person.

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

11 1. A written treatment program based on the individual needs of the
12 person.

13 2. Careful and periodic reexaminations of each person by appropriate
14 professional persons, including a physician. Reexaminations shall be made
15 once each ninety days, and the results shall be a part of the person's
16 medical record.

17 3. A full physical examination once a year.

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

20 C. An agency administering inpatient care and treatment, in
21 conjunction with the community treatment agency, ~~shall, prior to~~ AND BEFORE
22 the release of a patient, SHALL prepare a plan for the patient's care after
23 release, including arrangements for a place to live, ~~and~~ and an adequate program
24 for necessary treatment and maintenance, and SHALL provide the plan to the
25 patient's guardian if one exists. The community treatment agency shall make
26 a good faith effort to initiate treatment with a patient released from an
27 inpatient facility.

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

29 36-518. Application for voluntary admission; admission to
30 agency; minors; transportation

31 A. Pursuant to rules of the ~~division~~ ADMINISTRATION, any person who is
32 eighteen years of age or older and who manifests the capacity to give and

1 gives informed consent may be hospitalized for evaluation, care and treatment
2 by voluntarily ~~making written application~~ APPLYING IN WRITING on a prescribed
3 form. The agency to which the person applies may accept and admit the person
4 if the medical director of the agency or the admitting officer believes that
5 the person needs evaluation or will benefit from care and treatment of a
6 mental disorder or other personality disorder or emotional condition in the
7 agency. Informed consent ~~as defined in section 36-501~~ may be given by the
8 person's guardian pursuant to section 14-5312.01 or agent appointed pursuant
9 to chapter 32, article 6 of this title if that agent was granted the
10 authority to do this by the mental health care power of attorney. If an
11 agent gives informed consent ~~as defined in section 36-501~~, an evaluation
12 shall be conducted pursuant to section 36-3284.

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

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

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

28 2. An interview with the child by the medical director of the mental
29 health agency.

30 3. The medical director has explained to the child and the child's
31 parent, guardian or custodian or to the person designated by the court

1 pursuant to this subsection the program of evaluation or treatment
2 contemplated and its probable length.

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

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

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

14 E. All emergency admissions for mental health evaluation or treatment
15 of children shall be made pursuant to the standards and procedures in article
16 4 of this chapter.

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

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

29 Sec. 26. Section 36-520, Arizona Revised Statutes, is amended to read:
30 36-520. Application for evaluation; definition

31 A. Any responsible individual may apply for a court-ordered evaluation
32 of a person who is alleged to be, as a result of a mental disorder, a danger

1 to self or to others, ~~OR~~ OR a person with a persistent or acute disability or a
2 grave disability and who is unwilling or unable to undergo a voluntary
3 evaluation. The application shall be made in the prescribed form and manner
4 as adopted by the ~~deputy~~ director.

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

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

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

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

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

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

23 C. The application shall be signed and notarized.

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

31 E. If the applicant for the court-ordered evaluation presents the
32 person to be evaluated at the screening agency, the agency shall conduct a

1 prepetition screening examination. Except in the case of an emergency
2 evaluation, the person to be evaluated shall not be detained or forced to
3 undergo prepetition screening against the person's will.

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

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

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

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

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

- 23 1. Is under eighteen years of age.
24 2. Has been transferred to the criminal division of the superior court
25 pursuant to section 8-327 or who has been charged with an offense pursuant to
26 section 13-501.
27 3. Is under the supervision of an adult probation department.

28 Sec. 27. Section 36-521, Arizona Revised Statutes, is amended to read:
29 36-521. Preparation of petition for court-ordered evaluation;
30 procedures for prepetition screening

31 A. ~~Upon~~ ON receiving the application for evaluation, the screening
32 agency, ~~shall, prior to~~ BEFORE filing a petition for court-ordered

1 evaluation, **SHALL** provide prepetition screening within forty-eight hours
2 excluding weekends and holidays when possible to determine whether there is
3 reasonable cause to believe the allegations of the applicant for the
4 court-ordered evaluation, whether the person will voluntarily receive
5 evaluation at a scheduled time and place and whether ~~he~~ **THE PERSON** has a
6 persistent or acute disability, ~~OR~~ a grave disability or **IS** likely to
7 present a danger to self or others until the voluntary evaluation.

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

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

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

1 himself or others, ~~it~~ THE AGENCY shall take all reasonable steps to procure
2 such hospitalization on an emergency basis.

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

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

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

- 14 1. That a criminal investigation is warranted.
- 15 2. That the screening agency shall file the petition.
- 16 3. That no further proceedings are warranted. The screening agency
17 shall consider ~~such~~ THE recommendation in determining whether a court-ordered
18 evaluation is justified and shall include ~~such~~ THE recommendation with the
19 petition if ~~it~~ THE AGENCY decides to file the petition with the court.

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

22 Sec. 28. Section 36-522, Arizona Revised Statutes, is amended to read:
23 36-522. Voluntary evaluation

24 A. If the petition for court-ordered evaluation is not filed because
25 it has been determined that the proposed patient will voluntarily receive an
26 evaluation and is unlikely to present a danger to self or others until the
27 voluntary evaluation, the evaluation agency provided for by the county, or
28 selected by the proposed patient, shall be immediately notified and shall
29 provide evaluation of the proposed patient at a scheduled time and place
30 within five days of the notice. The voluntary evaluation may be on an
31 inpatient or outpatient basis.

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

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

12 Sec. 29. Section 36-523, Arizona Revised Statutes, is amended to read:
13 36-523. Petition for evaluation

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

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

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

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

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

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

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

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

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

9 2. If the opinion of the petitioner is that the proposed patient is
10 not in the condition described in paragraph 1 of this subsection, that the
11 opinion of the petitioner is either that the evaluation should or should not
12 take place on an outpatient basis.

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

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

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

26 Sec. 30. Section 36-531, Arizona Revised Statutes, is amended to read:
27 36-531. Evaluation; possible dispositions; release

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

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

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

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

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

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

2 36-535. Detention of proposed patient; time of hearing; released
3 patient; intervention by department

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

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

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

27 D. The ~~division~~ DEPARTMENT, acting on behalf of the state hospital,
28 THE ADMINISTRATION OR A REGIONAL BEHAVIORAL HEALTH AUTHORITY, may intervene
29 as a party to the proceedings on any petition for court-ordered treatment and
30 may appear as a party at the hearing on the petition by filing a written
31 notice of intervention with the clerk of the superior court in the county in
32 which the petition was filed, at any time before either the original time set

1 for the hearing or the time to which the hearing is continued. The
2 intervenor at the hearing may cross-examine any witnesses presented by other
3 parties pursuant to section 36-539, may subpoena and present witnesses of its
4 own, including physicians, and may present other evidence. The intervenor,
5 on stipulation with all other parties or on order of the court, may cause
6 physicians to personally conduct mental status examinations of the proposed
7 patient and to testify as to their opinions concerning whether the proposed
8 patient is, as a result of mental disorder, a danger to self or to others,~~—~~
9 **OR** has a persistent or acute disability or a grave disability and as to
10 whether the proposed patient requires treatment. This subsection applies in
11 addition to all rules of evidence, the Arizona rules of civil procedure and
12 section 36-539.

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

15 **36-540.02.** Transfer of a person with a grave disability without
16 a guardian from a mental health treatment agency to
17 another health care facility

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

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

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

3 36-541.01. Release or discharge from treatment before
4 expiration of period ordered by court; notification
5 of intent to release or discharge; hearing

6 A. A patient WHO IS ordered to undergo treatment pursuant to this
7 article may be released from treatment before the expiration of the period
8 ordered by the court if, in the opinion of the medical director of the mental
9 health treatment agency, the patient no longer is, as a result of a mental
10 disorder, a danger to others, ~~OR~~ a danger to self, ~~OR NO LONGER~~ has a
11 persistent or acute disability or a grave disability. A person WHO IS
12 ordered to undergo treatment as a danger to others may not be released or
13 discharged from treatment before the expiration of the period for treatment
14 ordered by the court unless the medical director first gives notice of
15 intention to do so as provided by this section.

16 B. Before the release or discharge of a patient WHO IS ordered to
17 undergo treatment, the medical director of the mental health treatment agency
18 shall notify the following of the medical director's intention to release or
19 discharge the patient:

20 1. The presiding judge of the court that entered the order for
21 treatment.

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

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

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

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

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

- 10 1. The full name of the person to receive notice.
- 11 2. The address to which notice is to be mailed.
- 12 3. The telephone number of the person to receive notice.
- 13 4. The relationship to the patient, if any, or the reasons why the
14 person believes the person has a legitimate reason to receive notice.
- 15 5. A statement that the person will advise the treatment agency in
16 writing by certified mail, return receipt requested, of any change in the
17 address to which notice is to be mailed.
- 18 6. The full name of the patient ordered to undergo treatment as a
19 danger to others.
- 20 7. The mental health number assigned to the case by the superior
21 court.

22 F. If the court receives a demand for notice by a relative or victim,
23 the court shall order the medical director of the mental health treatment
24 agency not to release or discharge the patient before the expiration of the
25 period of court-ordered treatment without first giving notice to the relative
26 or victim as provided in subsection G OF THIS SECTION. After considering a
27 petition for notice, if the court finds that the petitioner has a legitimate
28 reason for receiving prior notice, the court may order the medical director
29 of the mental health treatment agency not to release or discharge the patient
30 from inpatient treatment before the expiration of the period of court-ordered
31 treatment without first giving notice to the petitioner as provided in
32 subsection G OF THIS SECTION. Any order for notice shall be delivered to the

1 mental health treatment agency and shall be filed with the patient's clinical
2 record. If the patient is transferred to another agency or institution, any
3 orders for notice shall be transferred with the patient.

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

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

7 2. The type of release or discharge.

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

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

30 I. If a motion has not been made pursuant to subsection H OF THIS
31 SECTION, the patient may be released or discharged and the medical director
32 of the mental health treatment agency shall send to the court a certificate

1 that the patient is no longer a danger to others, ~~OR~~ a danger to self, ~~OR~~
2 **NO LONGER** has a persistent or acute disability or a grave disability as the
3 result of a mental disorder and therefore is released before the expiration
4 of the period ordered for treatment. The court shall enter an order
5 terminating the patient's court-ordered treatment.

6 J. The medical director of the mental health treatment agency shall
7 not be held civilly liable for any acts committed by a patient **WHO IS**
8 released before the expiration of the period of court-ordered treatment if
9 the medical director has in good faith followed the requirements of this
10 section.

11 Sec. 34. Section 36-543, Arizona Revised Statutes, is amended to read:

12 **36-543. Release from treatment of a patient with a grave**
13 **disability or a persistent or acute disability; annual**
14 **review; court order for continued treatment; rules**

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

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

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

1 D. Within ninety days before the expiration of a court order for
2 treatment, the medical director of the mental health treatment agency shall
3 conduct an annual review of a patient who has been found to have a grave
4 disability or a persistent or acute disability and is undergoing
5 court-ordered treatment to determine whether the continuation of
6 court-ordered treatment is appropriate and to assess the needs of the patient
7 for guardianship or conservatorship, or both. The annual review shall
8 consist of the mental health treatment and clinical records contained in the
9 patient's treatment file. The mental health treatment agency shall keep a
10 record of the annual review. If the medical director believes that a
11 continuation of court-ordered treatment is appropriate, the medical director
12 of the mental health treatment agency shall appoint one or more psychiatrists
13 to carry out a psychiatric examination of the patient. In any proceeding
14 conducted pursuant to this section, a patient has the right to have an
15 analysis of the patient's mental condition by an independent evaluation
16 pursuant to section 36-538.

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

20 1. The examiner's opinions as to whether the patient continues to have
21 a grave disability or a persistent or acute disability as the result of a
22 mental disorder and BE in need of continued court-ordered treatment. In
23 evaluating the patient's need for continued court-ordered treatment, the
24 examiner must consider, along with all other evidence, the patient's history
25 before and during the current period of court-ordered treatment, the
26 patient's compliance with recommended treatment and any other evidence
27 relevant to the patient's ability and willingness to follow recommended
28 treatment with or without a court order.

29 2. A statement as to whether suitable alternatives to court-ordered
30 treatment are available.

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

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

7 5. If the patient has an existing guardian who does not have the
8 mental health powers authorized pursuant to section 14-5312.01, a
9 recommendation as to whether the additional mental health powers authorized
10 by section 14-5312.01 should be imposed on the existing guardian and whether
11 the patient's needs can be adequately addressed by a guardian with mental
12 health powers without the need for a court order for treatment or whether the
13 court order for treatment should continue regardless of the additional mental
14 health powers imposed on the guardian.

15 6. The results of any physical examination conducted during the period
16 of court-ordered treatment if relevant to the psychiatric condition of the
17 patient.

18 F. After conducting the annual review as prescribed in this section,
19 if the medical director believes that continued court-ordered treatment is
20 necessary or appropriate, not later than thirty days before the expiration of
21 the court order for treatment, the medical director shall file with the court
22 an application for continued court-ordered treatment alleging the basis for
23 the application and shall file simultaneously with the application any
24 psychiatric examination conducted as part of the annual review. If the
25 patient is under guardianship, the medical director shall mail a copy of the
26 application to the patient's guardian.

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

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

31 2. Within ten days after appointment, an attorney appointed pursuant
32 to this subsection, to the extent possible, shall fulfill the duties imposed

1 pursuant to section 36-537, review the medical director's report and the
2 patient's medical records, interview any physician who prepared a report on
3 the annual review and file a response requesting a hearing or submitting the
4 matter to the court for a ruling based on the record without a hearing.

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

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

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

1 treatment has been established by clear and convincing evidence from the
2 other testimony and evidence presented at the hearing.

3 6. At a hearing held pursuant to this subsection, the court, with
4 notice, may impose on an existing guardian additional powers pursuant to
5 section 14-5312.01. If the court finds that the patient's needs can be
6 adequately met by an existing guardian with the additional powers pursuant to
7 section 14-5312.01 and that a court order for treatment is not necessary to
8 ensure compliance with necessary treatment, the court may terminate the court
9 order for treatment or decline to issue an order continuing court-ordered
10 treatment. The court may also order an investigation into the need for
11 guardianship or conservatorship, or both, and may appoint a suitable person
12 or agency to conduct the investigation. The appointee may include a
13 court-appointed guardian ad litem, a court-appointed investigator pursuant to
14 section 14-5308 or the public fiduciary if there is no person willing and
15 qualified to act in that capacity. The court shall give notice of the
16 appointment to the appointee within three days after the appointment. The
17 appointee shall submit the report of the investigation to the court within
18 twenty-one days. The report shall include recommendations as to who should
19 be guardian or conservator, or both, and the findings and reasons for the
20 recommendation. If the investigation and report so indicate, the court may
21 authorize an appropriate person to file a petition for appointment of a
22 guardian or conservator for the patient.

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

26 1. The patient continues to have a mental disorder and, as a result of
27 that disorder, has either a persistent or acute disability or a grave
28 disability.

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

30 3. The patient is either unwilling or unable to accept treatment
31 voluntarily.

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

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

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

12 36-545.01. Payment of costs and expenses; ability to pay; power
13 and duty of court; acceptance of other benefits;
14 per capita cost limitation; guardians; parental
15 liability; lien; duty of county attorney

16 A. When a patient is admitted to the state hospital for court-ordered
17 treatment pursuant to article 5 of this chapter or pursuant to section
18 13-3994, the business manager of the state hospital shall inquire into the
19 ability of the patient to pay the costs of examination, maintenance and
20 treatment. The business manager shall file with the clerk of the court a
21 written report of the manager's findings and the basis of those findings.

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

29 C. Notwithstanding subsection B of this section, any federal, state,
30 public or private medical benefits ~~which~~ THAT are payable to the state
31 hospital where the patient is receiving care and treatment or ~~which~~ THAT are
32 payable to the patient may be accepted by the state hospital without a court

1 order, except that the state hospital shall not accept any such benefits
2 ~~which~~ THAT alone or in addition to any amounts payable pursuant to subsection
3 B of this section exceed the per capita cost for the patient.

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

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

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

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

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

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

1 Sec. 36. Section 36-545.05, Arizona Revised Statutes, is amended to
2 read:

3 36-545.05. Charges for treatment by agencies under
4 administration contract; charges for prepetition
5 screening and court-ordered evaluation prohibited

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

9 B. When a patient is given voluntary treatment pursuant to ~~the~~
10 ~~provisions of~~ article 3 of this chapter or court-ordered treatment pursuant
11 to ~~the provisions of~~ article 5 of this chapter, the patient or proposed
12 patient ~~will~~ SHALL pay all or such portion of the established charges as the
13 patient can afford. If the patient is indigent, no charges shall be made
14 against ~~him~~ THE PATIENT.

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

17 36-545.06. County services

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

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

23 C. Each county shall coordinate the provision of mental health
24 services required pursuant to this section with the ~~division of behavioral~~
25 ~~health in the department of health services~~ ADMINISTRATION OR REGIONAL
26 BEHAVIORAL HEALTH AUTHORITY.

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

3 36-545.07. Contracts between the administration and screening
4 agencies, evaluation agencies and mental health
5 treatment agencies; services; plan

6 A. The ~~division, with the approval of the director,~~ ADMINISTRATION may
7 enter into contracts with screening agencies, evaluation agencies and mental
8 health treatment agencies to provide prepetition screenings, court-ordered
9 evaluations, voluntary evaluations, treatment of voluntary patients and
10 treatment of patients under ~~the provisions of~~ section 36-524 regardless of
11 the ability of the patient or proposed patient to pay. A county may be a
12 party to a contract as a provider of services or as a party making payments
13 to an agency to provide services on the part of the county. The state
14 hospital may be included in the contract as a provider of services and may
15 receive consideration not inconsistent with law.

16 B. Contracts to provide services as in subsection A of this section
17 shall be entered into in accordance with a plan of the ~~division, with the~~
18 ~~approval of the director~~ ADMINISTRATION. This plan shall be developed in
19 accordance with the state comprehensive health plan and in accordance with a
20 plan of the local health planning agency submitted to and approved by the
21 ~~deputy~~ director, except as provided in subsection C of this section.

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

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

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

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

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

11 36-550. Definitions

12 In this article, unless the context otherwise requires:

13 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
14 SYSTEM ADMINISTRATION.

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

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

21 ~~3. "Division" means the division of behavioral health in the~~
22 ~~department of health services.~~

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

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

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

3 36-550.01. Statewide plan for community residential treatment

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

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

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

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

18 3. Goals, objectives and priorities for the delivery of such services
19 and methods to evaluate program effectiveness of goals, objectives and
20 priorities.

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

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

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

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

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

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

11 36-550.04. Evaluation system; contract requirements

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

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

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

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

26 36-550.06. Client eligibility

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

- 30 1. They voluntarily seek the services.

1 beverages to the extent that ~~his~~ THE PERSON'S health is substantially
2 impaired or endangered or ~~his~~ social or economic functions are substantially
3 disrupted.

4 ~~2.~~ 3. "Approved private treatment facility" means a private agency
5 meeting the standards established by the ~~division~~ DEPARTMENT and approved
6 pursuant to sections 36-2023 and 36-2029.

7 ~~3.~~ 4. "Approved public treatment facility" means a treatment agency
8 operating under the directions and control of a county, providing treatment
9 through a contract with a county, meeting the standards established by the
10 ~~division~~ DEPARTMENT and approved pursuant to sections 36-2023 and 36-2029.

11 ~~4.~~ 5. "Chronic alcoholic" means an alcoholic who is incapacitated by
12 alcohol and who during the preceding twelve months has been admitted to a
13 local alcoholism reception center on ten or more occasions or has been
14 admitted for three or more episodes of inpatient or residential alcoholism
15 treatment.

16 ~~5.~~ 6. "Court" means a court of record, a justice of the peace court,
17 a police court or a city court authorized by charter.

18 ~~6.~~ 7. "Department" means the department of health services.

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

21 8. "Director" means the director of the ~~department of health services~~
22 ADMINISTRATION.

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

25 ~~10.~~ 9. "Evaluation" means A multidisciplinary professional analysis
26 of a person's medical, psychological, social, financial and legal conditions.
27 Persons providing evaluation services shall be properly qualified
28 professionals and may be full-time employees of an approved treatment
29 facility providing evaluation services or may be part-time employees or may
30 be employed on a contractual basis.

31 ~~11.~~ 10. "Incapacitated by alcohol" means that a person as a result of
32 the use of alcohol is unconscious or has ~~his~~ judgment otherwise so impaired

1 that ~~he~~ THE PERSON is incapable of realizing and making a rational decision
2 with respect to ~~his~~ THE PERSON'S need for evaluation and treatment, is unable
3 to take care of ~~his~~ basic personal needs or safety such as food, clothing,
4 shelter or medical care or lacks sufficient understanding or capacity to make
5 or communicate rational decisions ~~concerning himself~~.

6 ~~12.~~ 11. "Intoxicated person" means a person whose mental or physical
7 functioning is substantially impaired as a result of the immediate effects of
8 alcohol in ~~his~~ THE PERSON'S system.

9 ~~13.~~ 12. "Local alcoholism reception center" or "center" means an
10 initial reception agency for a person who is intoxicated or who is
11 incapacitated by alcohol to receive initial evaluation and processing for
12 assignment for further evaluation or into a treatment program.

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

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

20 36-2022. Establishment of facilities

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

27 B. Counties may establish a public treatment facility or facilities
28 for the evaluation and treatment of alcoholics and intoxicated persons by
29 resolution of the board of supervisors.

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

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

3 36-2023. Rules

4 A. The department shall adopt and enforce rules to establish standards
5 for approved public and private treatment facilities that must be met for a
6 treatment facility to be approved. The department periodically shall inspect
7 approved facilities at reasonable times and in a reasonable manner. Each
8 approved public and private treatment facility shall file with the department
9 on request information the department requires pursuant to rule. The
10 department shall remove from the list of approved treatment facilities ~~an~~
11 ~~approved~~ A facility that without good cause fails to furnish information as
12 requested or that files fraudulent information.

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

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

23 2. A person shall receive an initial evaluation.

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

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

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

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

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

5 1. Enlist the assistance of all public and private agencies,
6 organizations and individuals engaged in the prevention of alcoholism and
7 treatment of alcoholics and intoxicated persons at approved public and
8 private facilities.

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

13 3. Cooperate with the department of education, schools, police
14 departments, courts and other public and private agencies, organizations and
15 individuals in establishing programs for the prevention of alcoholism and
16 treatment of alcoholics and intoxicated persons and in preparing curriculum
17 materials for use at all levels of school education.

18 4. Specify a uniform method for keeping statistical information by
19 approved public and private treatment facilities and collect and make
20 available relevant statistical information, including the number of persons
21 treated, frequency of admission, and readmission and frequency and duration
22 of treatment.

23 5. Cooperate with the department of transportation in establishing and
24 conducting programs designed to deal with the problem of persons operating
25 motor vehicles while intoxicated.

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

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

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

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

4 (d) A description of the demographic characteristics of the client
5 population served by each program, including age groups, gender and
6 ethnicity.

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

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

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

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

14 36-2024. Treatment of alcoholics

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

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

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

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

3 36-2026. Emergency admission

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

7 1. Has threatened, attempted or inflicted physical harm on self or
8 others, and is likely to inflict physical harm on self or others unless
9 admitted.

10 2. Is incapacitated by alcohol.

11 B. A peace officer who has reasonable cause to believe that a person
12 is intoxicated in a public place and ~~such~~ THAT THE person is or may be a
13 danger to self or others may transport ~~such~~ THE person to a local alcoholism
14 reception center. Unnecessary or unreasonable force shall not be used in
15 transporting the person, and the person shall not be subjected to any greater
16 restraint than is necessary to transport the person to the local alcoholism
17 reception center.

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

24 1. A local alcoholism reception center or other approved facility is
25 not available within ten miles or the peace officer has determined that the
26 local alcoholism reception center or other approved facility is filled to
27 capacity and has no further capacity at the present time to provide
28 evaluation and treatment services to additional persons.

29 2. The peace officer has been informed by the governing body of the
30 city or town or the board of supervisors of the county in which the peace
31 officer is employed that the ~~deputy director of the division of behavioral~~
32 ~~health~~ DEPARTMENT has determined that ~~such~~ THE city, town or county has made

1 a reasonable effort to provide adequate local alcoholism reception services
2 for persons incapacitated by alcohol and, based on that determination, has
3 issued a renewable three-month temporary waiver to allow the transportation
4 of certain intoxicated persons in the city, town or county to detention
5 facilities pursuant to this section. The determination may be made by the
6 ~~deputy~~ director OF THE DEPARTMENT on application by the governing body of the
7 city or town or the board of supervisors of a county.

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

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

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

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

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

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

3 36-2028. Payment for treatment; financial ability of patient or
4 guardian

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

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

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

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

1 amount of expenditures for capital outlay in its determination of the fee
2 schedules.

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

5 36-2029. Funding of facilities; contracts; limitations

6 A. The ~~division~~ ADMINISTRATION may use municipal, county, state and
7 federal monies appropriated or otherwise available for the evaluation and
8 treatment of alcoholics to assist in the establishment and maintenance of
9 approved public or private treatment facilities. ~~Such~~ THE monies may be
10 expended for professional fees for services at an approved treatment facility
11 or in contract for advancement or reimbursement of services provided at an
12 approved treatment facility or any other appropriate manner and may be used
13 for any purpose necessary to provide evaluation and treatment at approved
14 treatment facilities. These monies may not be used for ~~division~~ salaries or
15 any other purpose within the ~~division~~ ADMINISTRATION but may be used
16 for consultation ~~to the division~~ SERVICES in the interest of approved
17 treatment facilities.

18 B. A public or private treatment facility providing or intending to
19 provide evaluation and treatment and desiring to contract with the ~~division~~
20 ADMINISTRATION for the furnishing of such services shall submit a program,
21 plan and budget to the ~~division~~ ADMINISTRATION on the forms and in the manner
22 required by the ~~division~~ ADMINISTRATION. If such A facility is approved, the
23 ~~division~~ ADMINISTRATION may contract with the facility for services as
24 required and ~~upon~~ ON such terms and conditions as the ~~division shall require~~
25 ADMINISTRATION REQUIRES.

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

30 D. An approved private or public treatment facility providing
31 evaluation and treatment may receive state funding ~~upon~~ ON complying with the
32 rules ~~and regulations~~ established by the ~~division~~ DEPARTMENT AND THE

1 ADMINISTRATION. Any such facility is not eligible for state funding until
2 approved by the ~~deputy director~~ ADMINISTRATION.

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

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

10 36-2051. Definition of federal act

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

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

14 2. ~~"Division" means the division of behavioral health in the~~
15 ~~department of health services.~~

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

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

20 36-2052. Designation of state agency

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

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

25 36-2901. Definitions

26 In this article, unless the context otherwise requires:

27 1. "Administration" means the Arizona health care cost containment
28 system administration.

29 2. "Administrator" means the administrator of the Arizona health care
30 cost containment system.

31 3. "Contractor" means a person or entity that has a prepaid capitated
32 contract with the administration pursuant to section 36-2904 OR CHAPTER 34 OF

1 THIS TITLE to provide health care to members under this article OR PERSONS
2 UNDER CHAPTER 34 OF THIS TITLE either directly or through subcontracts with
3 providers.

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

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

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

8 (a) Any of the following:

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

11 (ii) Defined in title XIX of the social security act as an eligible
12 pregnant woman with a family income that does not exceed one hundred fifty
13 ~~per-cent~~ PERCENT of the federal poverty guidelines, as a child under the age
14 of six years and whose family income does not exceed one hundred thirty-three
15 ~~per-cent~~ PERCENT of the federal poverty guidelines or as children who have
16 not attained nineteen years of age and whose family income does not exceed
17 one hundred thirty-three ~~per-cent~~ PERCENT of the federal poverty guidelines.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 10. "Modified adjusted gross income" has the same meaning prescribed in
18 42 United States Code section 1396a(e)(14).

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

22 12. "Physician" means a person licensed pursuant to title 32, chapter
23 13 or 17.

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

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

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

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

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

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

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

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

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

28 9. Podiatry services ordered by a primary care physician or primary
29 care practitioner.

30 10. Nonexperimental transplants approved for title XIX reimbursement.

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

1 12. Hospice care.

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

4 1. Circumcision of newborn males is not a covered health and medical
5 service.

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

7 (a) Outpatient health services do not include occupational therapy or
8 speech therapy.

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

13 (c) Percussive vests and orthotics are not covered health and medical
14 services.

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

16 (e) Podiatry services do not include services performed by a
17 podiatrist.

18 (f) Nonexperimental transplants do not include pancreas-only
19 transplants.

20 (g) Bariatric surgery procedures, including laparoscopic and open
21 gastric bypass and restrictive procedures, are not covered health and medical
22 services.

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

26 D. The director shall adopt rules necessary to limit, to the extent
27 possible, the scope, duration and amount of services, including maximum
28 limitations for inpatient services that are consistent with federal
29 regulations under title XIX of the social security act (P.L. 89-97; 79 Stat.
30 344; 42 United States Code section 1396 (1980)). To the extent possible and
31 practicable, these rules shall provide for the prior approval of medically
32 necessary services provided pursuant to this chapter.

1 E. The director shall make available home health services in lieu of
2 hospitalization pursuant to contracts awarded under this article. For the
3 purposes of this subsection, "home health services" means the provision of
4 nursing services, home health aide services or medical supplies, equipment
5 and appliances that are provided on a part-time or intermittent basis by a
6 licensed home health agency within a member's residence based on the orders
7 of a physician or a primary care practitioner. Home health agencies shall
8 comply with the federal bonding requirements in a manner prescribed by the
9 administration.

10 F. The director shall adopt rules for the coverage of behavioral
11 health services for persons who are eligible under section 36-2901, paragraph
12 6, subdivision (a). ~~The administration shall contract with the department of~~
13 ~~health services for the delivery of all medically necessary behavioral health~~
14 ~~services to persons who are eligible under rules adopted pursuant to this~~
15 ~~subsection. The division of behavioral health in the department of health~~
16 ~~services~~ THE ADMINISTRATION ACTING THROUGH THE REGIONAL BEHAVIORAL HEALTH
17 AUTHORITIES shall establish a diagnostic and evaluation program to which
18 other state agencies shall refer children who are not already enrolled
19 pursuant to this chapter and who may be in need of behavioral health
20 services. In addition to an evaluation, the ~~division of behavioral health~~
21 ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall
22 also identify children who may be eligible under section 36-2901, paragraph
23 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the
24 children to the appropriate agency responsible for making the final
25 eligibility determination.

26 G. The director shall adopt rules for the provision of transportation
27 services and rules providing for copayment by members for transportation for
28 other than emergency purposes. Subject to approval by the centers for
29 medicare and medicaid services, nonemergency medical transportation shall not
30 be provided except for stretcher vans and ambulance transportation. Prior
31 authorization is required for transportation by stretcher van and for
32 medically necessary ambulance transportation initiated pursuant to a

1 physician's direction. Prior authorization is not required for medically
2 necessary ambulance transportation services rendered to members or eligible
3 persons initiated by dialing telephone number 911 or other designated
4 emergency response systems.

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

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

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

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

29 1. Emergency services and specialty services provided pursuant to
30 section 36-2908.

31 2. That the director may permit the delivery of health and medical
32 services in other than the geographic service area in this state or in an

1 adjoining state if the director determines that medical practice patterns
2 justify the delivery of services or a net reduction in transportation costs
3 can reasonably be expected. Notwithstanding the definition of physician as
4 prescribed in section 36-2901, if services are procured from a physician or
5 primary care practitioner in an adjoining state, the physician or primary
6 care practitioner shall be licensed to practice in that state pursuant to
7 licensing statutes in that state similar to title 32, chapter 13, 15, 17 or
8 25 and shall complete a provider agreement for this state.

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

14 M. The director shall adopt rules that prescribe the coordination of
15 medical care for persons who are eligible for system services. The rules
16 shall include provisions for the transfer of patients, the transfer of
17 medical records and the initiation of medical care.

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

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

22 36-2989. Covered health and medical services; modifications;
23 related delivery of service requirements

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

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

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

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

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

11 5. Medical supplies, equipment and prosthetic devices.

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

15 7. Medically necessary dental services.

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

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

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

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

1 12. Medically necessary emergency and nonemergency transportation.

2 13. Inpatient and outpatient behavioral health services that are the
3 same as the least restrictive health benefits coverage plan for behavioral
4 health services that are offered through a health care services organization
5 for state employees under section 38-651.

6 14. Hospice care.

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

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

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

14 E. Behavioral health services shall be provided to members through the
15 administration's ~~intergovernmental agreement with the division of behavioral~~
16 ~~health in the department of health services~~ CONTRACTORS. The ~~division of~~
17 ~~behavioral health in the department of health services~~ ADMINISTRATION ACTING
18 THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall use its established
19 diagnostic and evaluation program for referrals of children who are not
20 already enrolled pursuant to this article and who may be in need of
21 behavioral health services. In addition to an evaluation, the ~~division of~~
22 ~~behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH
23 AUTHORITIES shall also identify children who may be eligible under section
24 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and
25 shall refer the children to the appropriate agency responsible for making the
26 final eligibility determination.

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

31 G. The director may adopt rules to allow the administration to use a
32 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".

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

3 36-3401. Definitions

4 In this chapter, unless the context otherwise requires:

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

7 ~~1.~~ 2. "Advisory council" means the Arizona state advisory council on
8 the seriously mentally ill.

9 ~~2.~~ 3. "Children" means persons who are under the age of nineteen
10 years or persons who are under the age of twenty-two years and enrolled in an
11 educational facility.

12 ~~3.~~ 4. "Clean claim" means a claim that can be processed without
13 obtaining additional information from the service provider or from a third
14 party. Clean claim does not include claims under investigation for fraud or
15 abuse or claims under review for medical necessity.

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

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

19 ~~6.~~ 5. "Director" means the director of the ~~department of health
20 services~~ ADMINISTRATION.

21 ~~7. "Division" means the division of behavioral health in the
22 department of health services.~~

23 ~~8.~~ 6. "Regional behavioral health authority" means an organization
24 under contract with the ~~department~~ ADMINISTRATION to coordinate the delivery
25 of mental health services in a geographically specific service area of the
26 state for eligible persons.

27 ~~9.~~ 7. "Service provider" means an organization or mental health
28 professional that meets the criteria established by the ~~department~~
29 ADMINISTRATION and has a contract with the ~~department~~ ADMINISTRATION or a
30 regional behavioral health authority.

31 Sec. 61. Repeal

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

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

2 1. Unified mental health programs, ~~to include~~ EXCLUDING the functions

3 of the state hospital ~~and~~ BUT INCLUDING community mental health.

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

5 C. Notwithstanding any other law, the ~~deputy~~ director may waive or

6 reduce the requirements for local match.

7 ~~D. The superintendent of the Arizona state hospital shall be appointed~~

8 ~~by the deputy director, subject to the approval of the director, and shall~~

9 ~~report directly to the deputy director.~~

10 D. EXCEPT AS OTHERWISE REQUIRED BY THIS CHAPTER, THE DIRECTOR SHALL

11 CARRY OUT THE DUTIES OF THIS CHAPTER SUBJECT TO AND CONSISTENT WITH CHAPTER

12 29 OF THIS TITLE.

13 E. The ~~department~~ ADMINISTRATION shall contract with an independent

14 consulting firm for an annual study of the adequacy and appropriateness of

15 title XIX reimbursement rates to providers of behavioral health services.

16 The ~~department~~ ADMINISTRATION may require, ~~and the department's contracted~~

17 ~~providers~~ THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES AND SERVICE PROVIDERS

18 shall provide, ~~financial data~~ to the ~~department~~ ADMINISTRATION FINANCIAL DATA

19 in the format prescribed by the ~~department~~ ADMINISTRATION to assist in the

20 study. A complete study of reimbursement rates shall be completed ~~no less~~

21 ~~than~~ AT LEAST once every five years. The ~~department~~ ADMINISTRATION shall

22 provide the report to the joint legislative budget committee ~~and the Arizona~~

23 ~~health care cost containment system administration by October 1, 2002 and by~~

24 ON OR BEFORE October 1 of each year ~~thereafter. The department shall include~~

25 ~~the results of the study in its yearly capitation request to the Arizona~~

26 ~~health care cost containment system administration.~~ If results of the study

27 are not completely incorporated into the capitation rate, the ~~Arizona health~~

28 ~~care cost containment system~~ administration shall provide a report to the

29 joint legislative budget committee within thirty days of setting the final

30 capitation rate, including reasons for differences between the rate and the

31 study.

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

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

7 36-3404. Administration budget for behavioral health; funds

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

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

15 1. A proposed budget for the administration of ~~the division~~ BEHAVIORAL
16 HEALTH SERVICES.

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

20 ~~3.~~ 2. A proposed budget for services for each behavioral health
21 program.

22 C. The ~~deputy~~ director shall establish funds for each behavioral
23 health program. Monies appropriated to the ~~division~~ ADMINISTRATION for these
24 programs, ~~and grants, gifts and~~ fees generated by the ~~division~~, PROVISION OF
25 THESE PROGRAMS AND GRANTS AND GIFTS TO THE ADMINISTRATION shall be maintained
26 in the appropriate fund to pay program and administrative costs. The
27 administrative costs of each program shall be separately identified in the
28 accounting records of the ~~division~~ ADMINISTRATION.

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

3 36-3405. Annual report; reports

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

8 B. The report required pursuant to subsection A of this section shall
9 include revenues and expenditures for ~~the division~~ BEHAVIORAL HEALTH PROGRAMS
10 and total revenues and expenditures, including specific identification of
11 administrative costs for each behavioral health program by the following
12 categories:

- 13 1. The seriously mentally ill.
- 14 2. Alcohol and drug abuse.
- 15 3. Children with severe emotional disabilities.
- 16 4. Domestic violence.
- 17 ~~5. The Arizona state hospital.~~

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

20 D. The director shall provide a monthly report to the governor, the
21 speaker of the house of representatives and the president of the senate ~~which~~
22 THAT shall, by regional behavioral health authority, separately report title
23 XIX and nontitle XIX categories and shall include for each category the
24 number of persons served, the units of service and the amount of funding
25 provided for client services and the amount provided for regional behavioral
26 health authority administration and case management expenses.

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

29 36-3406. Arizona state advisory council on the seriously
30 mentally ill; membership; compensation; duties

31 A. The Arizona state advisory council on the seriously mentally ill is
32 established.

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

3 1. One member representing an advocacy group for the seriously
4 mentally ill.

5 2. One service provider.

6 3. One member representing a behavioral health contract agency in an
7 urban area.

8 4. One member representing a behavioral health contract agency in a
9 rural area.

10 5. One member of a county health department specializing in the
11 delivery of services to the seriously mentally ill.

12 6. One health care professional who works with the seriously mentally
13 ill and who is not associated with a contract agency providing services.

14 7. Three family members of persons who are seriously mentally ill.

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

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

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

21 F. The ~~division~~ ADMINISTRATION shall provide necessary staff services
22 to the advisory council.

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

25 H. Appointed members of the advisory council shall serve staggered
26 three-year terms.

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

29 36-3407. Services; contract

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

- 1 1. Community education to increase public awareness of the needs of
2 persons experiencing behavioral health problems.
- 3 2. Coordinated screening and intake.
- 4 3. A coordinated service delivery system.
- 5 4. Coordinated case management and individualized treatment planning
6 for each client.
- 7 5. Ongoing family participation in the planning for and selection of
8 continuum of care services.
- 9 6. A comprehensive continuum of care services, as appropriate for each
10 client, ~~which shall include but not be limited to~~ THAT INCLUDES the
11 following:
 - 12 (a) Home-based services.
 - 13 (b) Prevention and early intervention.
 - 14 (c) Psychiatric evaluation and consultation.
 - 15 (d) Ancillary support services.
 - 16 (e) Crisis intervention, including short-term and mobile crisis
17 stabilization.
 - 18 (f) Outpatient counseling.
 - 19 (g) Residential treatment services.
 - 20 (h) Case management.
 - 21 (i) Partial care services.
 - 22 (j) Secure residential treatment services.
 - 23 (k) Residential treatment services for clients discharged from the
24 Arizona state hospital.
 - 25 (l) Hospitalization services.
 - 26 (m) Psychotropic medication services.
 - 27 (n) Independent living services.
 - 28 (o) Detoxification services.
 - 29 (p) Respite care.
 - 30 (q) Vocational rehabilitation.
 - 31 (r) Transportation.
 - 32 (s) Socialization and recreation.

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

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

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

29 B. Applicants who refuse to cooperate in the financial screening and
30 eligibility process are not eligible for services pursuant to this chapter.
31 A form explaining loss of benefits due to refusal to cooperate shall be
32 signed by the applicant. Refusal to cooperate shall not be construed to mean

1 the applicant's inability to obtain documentation required for eligibility
2 determination. The department of economic security ~~and the Arizona health~~
3 ~~care cost containment system administration~~ shall promptly inform the
4 ~~department of health services~~ ADMINISTRATION of the applications that are
5 denied based on an applicant's failure to cooperate with the eligibility
6 determination process and, on request, of applicants who do not submit an
7 application as required by this section.

8 C. The department of economic security, in coordination with the
9 ~~department of health services~~ ADMINISTRATION, shall provide on-site
10 eligibility determinations at appropriate program locations subject to
11 legislative appropriation.

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

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

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

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

23 36-3409. Fee requirements; fee schedules

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

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

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

3 36-3410. Regional behavioral health authorities; contracts;
4 monthly summaries; inspection; copying fee;
5 children's behavioral health and seriously mentally
6 ill services

7 A. If the ~~department~~ ADMINISTRATION contracts with behavioral health
8 contractors ~~which~~ THAT would act as regional behavioral health authorities or
9 directly with a service provider for behavioral health services, the
10 ~~department~~ ADMINISTRATION and each behavioral health contractor or service
11 provider shall prepare and make available monthly summary statements, in a
12 format prescribed by the ~~department~~ ADMINISTRATION, that separately detail by
13 title XIX and nontitle XIX and by service category and service type, as
14 defined by contract with the ~~department~~ ADMINISTRATION, the number of clients
15 served, the units of service provided and the state and federal monies
16 distributed through the ~~department~~ ADMINISTRATION to each regional behavioral
17 health authority or direct contract service provider and the amounts
18 distributed by each regional behavioral health authority or direct contract
19 service provider to ~~their~~ ITS subcontractors. The director may require
20 additional information in the monthly statement ~~which~~ THAT the director
21 determines to be critical for proper regulation and oversight of the regional
22 behavioral health authority or the direct contract service provider.

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

27 C. Except as provided in subsections D and E of this section,
28 behavioral health contractors under contract with the ~~department~~
29 ADMINISTRATION to act as regional behavioral health authorities may perform
30 only managed care functions. Regional behavioral health authorities and
31 their subsidiaries shall not deliver behavioral health services directly to
32 clients. ~~The prohibition on regional behavioral health authorities and their~~

1 ~~subsidiaries delivering behavioral health services directly to clients shall~~
2 ~~be fully implemented by September 1, 2009.~~

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

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

10 2. Until the provider in question reorganizes or otherwise corrects
11 the contract performance failure.

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

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

19 G. The summaries and the contracts on which they are based are open to
20 public inspection. The ~~department~~ ADMINISTRATION and each regional
21 behavioral health authority or direct contract service provider shall make
22 the summaries available for inspection and copying at the office of each
23 regional behavioral health authority or direct contract service provider and
24 at the ~~department~~ ADMINISTRATION.

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

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

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

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

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

11 36-3411. Behavioral health services; timely reimbursement;
12 penalties

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

16 B. Any contract issued by or on behalf of the ~~division~~ ADMINISTRATION
17 for the provision of behavioral health services shall include language
18 outlining provisions for penalties for noncompliance with contract
19 requirements.

20 C. If the regional behavioral health authority does not reimburse a
21 provider as required by this section, the director shall subject the regional
22 behavioral health authority to the penalty provisions prescribed in the
23 contract, which shall not exceed the interest charges prescribed in section
24 44-1201. The director shall impose any financial penalties levied on the
25 regional behavioral health authority through a reduction in the amount of
26 ~~funds~~ MONIES payable to the regional behavioral health authority for
27 administrative expenses.

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

30 E. The ~~department~~ ADMINISTRATION or a regional behavioral health
31 authority shall not pay claims for covered services that are initially
32 submitted more than nine months after the date of the services for which

1 payment is claimed or that are submitted as clean claims more than twelve
2 months after the date of service for which payment is claimed. A person WHO
3 IS dissatisfied with the denial of a claim by the ~~department~~ ADMINISTRATION
4 or by the regional behavioral health authority has twelve months from the
5 date of the service for which payment is claimed to institute a grievance
6 against the ~~department~~ ADMINISTRATION or regional behavioral health
7 authority.

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

18 G. This section does not apply to services provided by a hospital
19 pursuant to section 36-2903.01, subsection G, or section 36-2904, subsection
20 H or I.

21 Sec. 71. Repeal

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

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

25 36-3412. Contracts; regional behavioral health authorities

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

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

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

3 2. FOR THE MAINTENANCE OF DEPOSITS, PERFORMANCE BONDS, FINANCIAL
4 RESERVES OR OTHER FINANCIAL SECURITY.

5 3. FOR THE WITHHOLDING OR FORFEITURE OF PAYMENTS TO BE MADE TO A
6 REGIONAL BEHAVIORAL HEALTH AUTHORITY BY THE ADMINISTRATION DUE TO THE
7 AUTHORITY'S FAILURE TO COMPLY WITH A PROVISION OF THE AUTHORITY'S CONTRACT
8 WITH THE ADMINISTRATION OR WITH ADOPTED RULES.

9 4. AUTHORIZING THE ADMINISTRATION TO OPERATE A REGIONAL BEHAVIORAL
10 HEALTH AUTHORITY DIRECTLY.

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

15 D. DURING ANY PERIOD IN WHICH SERVICES ARE NEEDED AND NO CONTRACT
16 EXISTS, THE DIRECTOR MAY EMPLOY ANY OF THE OPTIONS AUTHORIZED BY SECTION
17 36-2904, SUBSECTION B.

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

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

26 G. REGIONAL BEHAVIORAL HEALTH AUTHORITIES ARE SUBJECT TO SECTION
27 36-2905.

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

30 36-3413. Grievance and appeal process

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

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

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

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

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

29 Sec. 74. Repeal

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

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

3 36-3415. Behavioral health expenditures; annual report
4 ~~Beginning October 1, 2013,~~ The ~~department of health services~~
5 **ADMINISTRATION** shall report annually to the joint legislative budget
6 committee on each fiscal year's medicaid and nonmedicaid behavioral health
7 expenditures, including behavioral health demographics ~~including~~ **THAT INCLUDE**
8 client income, utilization and expenditures, medical necessity oversight
9 practices, tracking of high-cost beneficiaries, mortality trends, placement
10 trends, program integrity and access to services.

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

13 36-3431. Comprehensive behavioral health service system for
14 children; administration duties

15 A. The ~~division~~ **ADMINISTRATION** shall develop and implement a
16 comprehensive behavioral health service system for children ~~which shall~~
17 ~~include~~ **THAT INCLUDES** the following:

- 18 1. Annual needs assessment and resource assessment studies.
- 19 2. Annual planning to develop policy issues, programs and services.
- 20 3. Community education to increase public awareness of the needs of
21 children.
- 22 4. Centralized and coordinated screening and intake.
- 23 5. Coordinated casemanagement.
- 24 6. A continuum of treatment services, which may include the following:
 - 25 (a) Home-based services.
 - 26 (b) Prevention and early intervention.
 - 27 (c) Psychological evaluation and consultation.
 - 28 (d) Ancillary support services.
 - 29 (e) Crisis intervention.
 - 30 (f) Outpatient counseling.
 - 31 (g) Independent living services.

1 (h) Secure residential treatment services for seriously emotionally
2 disturbed children.

3 (i) Residential treatment services for children's substance abuse.

4 (j) Psychiatric hospitalization services.

5 7. Evaluation ~~which~~ THAT determines both cost effectiveness and client
6 outcome.

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

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

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

15 36-3432. System plan; annual report

16 The ~~division~~ ADMINISTRATION shall develop a plan for each fiscal year
17 identifying the services, the estimated number of clients and an
18 appropriations request for the purposes of systematic development and
19 implementation of the comprehensive behavioral health service system for
20 children. The plan shall be presented to the speaker of the house of
21 representatives, the president of the senate and the governor on or before
22 November 1 of each year.

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

25 36-3433. Annual budget; request and allocation

26 A. The ~~department~~ ADMINISTRATION shall annually include in its budget
27 request a separate appropriations request for the comprehensive behavioral
28 health service system for children. The request shall be based on the annual
29 plan and assessment ~~studies from the division.~~ All behavioral health
30 services provided for children by the ~~division~~ ADMINISTRATION shall be
31 included in the request.

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

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

4 2. Allocate up to five ~~per-cent~~ PERCENT of the total appropriations
5 requested for evaluation of the system.

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

7 (a) Outpatient services.

8 (b) Secure residential services for seriously emotionally disturbed
9 children.

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

11 (d) Partial care and day treatment services.

12 (e) Emergency services, including crisis shelter, crisis stabilization
13 and emergency inpatient hospitalization.

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

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

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

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

28 36-3434. Current service delivery system; continuation

29 Nothing in this article relieves the state department of corrections,
30 the department of economic security, the department of child safety, the
31 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

1 ~~departments, agencies, councils or associations,~~ ENTITIES or that person's
2 designee:

3 1. Attorney general.
4 2. Office of women's and children's health in the department of health
5 services.

6 3. Office of planning and health status monitoring in the department
7 of health services.

8 ~~4. Division of behavioral health in the department of health services.~~

9 4. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

10 5. Division of developmental disabilities in the department of
11 economic security.

12 6. Department of child safety.

13 7. Governor's office for children.

14 8. Administrative office of the courts.

15 9. Parent assistance office of the supreme court.

16 10. Department of juvenile corrections.

17 11. Arizona chapter of a national pediatric society.

18 B. The director of the department of health services shall appoint the
19 following members to serve staggered three-year terms:

20 1. A medical examiner who is a forensic pathologist.

21 2. A maternal and child health specialist involved with the treatment
22 of native Americans.

23 3. A representative of a private nonprofit organization of tribal
24 governments in this state.

25 4. A representative of the Navajo tribe.

26 5. A representative of the United States military family advocacy
27 program.

28 6. A representative of a statewide prosecuting attorneys advisory
29 council.

30 7. A representative of a statewide law enforcement officers advisory
31 council who is experienced in child homicide investigations.

32 8. A representative of an association of county health officers.

1 9. A child advocate who is not employed by or an officer of this state
2 or a political subdivision of this state.

3 10. A public member. If local teams are formed pursuant to this
4 article, the director of the department of health services shall select this
5 member from one of those local teams.

6 C. The team shall:

7 1. Develop a child fatalities data collection system.

8 2. Provide training to cooperating agencies, individuals and local
9 child fatality review teams on the use of the child fatalities data system.

10 3. Conduct an annual statistical report on the incidence and causes of
11 child fatalities in this state during the past fiscal year and submit a copy
12 of this report, including its recommendations for action, to the governor,
13 the president of the senate and the speaker of the house of representatives
14 on or before November 15 of each year.

15 4. Encourage and assist in the development of local child fatality
16 review teams.

17 5. Develop standards and protocols for local child fatality review
18 teams and provide training and technical assistance to these teams.

19 6. Develop protocols for child fatality investigations, including
20 protocols for law enforcement agencies, prosecutors, medical examiners,
21 health care facilities and social service agencies.

22 7. Study the adequacy of statutes, ordinances, rules, training and
23 services to determine what changes are needed to decrease the incidence of
24 preventable child fatalities and, as appropriate, take steps to implement
25 these changes.

26 8. Provide case consultation on individual cases to local teams if
27 requested.

28 9. Educate the public regarding the incidence and causes of child
29 fatalities as well as the public's role in preventing these deaths.

30 10. Designate a team chairperson.

1 11. Develop and distribute an informational brochure that describes the
2 purpose, function and authority of a team. The brochure shall be available
3 at the offices of the department of health services.

4 12. Evaluate the incidence and causes of maternal fatalities associated
5 with pregnancy in this state. For the purposes of this paragraph, "maternal
6 fatalities associated with pregnancy" means the death of a woman while she is
7 pregnant or within one year after the end of her pregnancy.

8 13. Inform the governor and the legislature of the need for specific
9 recommendations regarding unexplained infant death.

10 14. Periodically review the infant death investigation checklist
11 developed by the department of health services pursuant to section 36-3506.
12 In reviewing the checklist, the review team shall consider guidelines
13 endorsed by national infant death organizations.

14 D. Team members are not eligible to receive compensation, but members
15 appointed pursuant to subsection B are eligible for reimbursement of expenses
16 pursuant to title 38, chapter 4, article 2.

17 E. The department of health services shall provide professional and
18 administrative support to the team.

19 F. Notwithstanding subsections C and D of this section, this section
20 does not require expenditures above the revenue available from the child
21 fatality review fund.

22 Sec. 82. Section 41-2501, Arizona Revised Statutes, is amended to
23 read:

24 41-2501. Applicability

25 A. This chapter applies only to procurements initiated after
26 January 1, 1985 unless the parties agree to its application to procurements
27 initiated before that date.

28 B. This chapter applies to every expenditure of public monies,
29 including federal assistance monies except as otherwise specified in section
30 41-2637, by this state, acting through a state governmental unit as defined
31 in this chapter, under any contract, except that this chapter does not apply
32 to either grants as defined in this chapter, or contracts between this state

1 and its political subdivisions or other governments, except as provided in
2 chapter 24 of this title and in article 10 of this chapter. This chapter
3 also applies to the disposal of state materials. This chapter and rules
4 adopted under this chapter do not prevent any state governmental unit or
5 political subdivision from complying with the terms of any grant, gift,
6 bequest or cooperative agreement.

7 C. All political subdivisions and other local public agencies of this
8 state may adopt all or any part of this chapter and the rules adopted
9 pursuant to this chapter.

10 D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply
11 to any agency as defined in section 41-1001, including the office of the
12 governor.

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

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

20 G. The Arizona state lottery commission is exempt from this chapter
21 for procurement relating to the design and operation of the lottery or
22 purchase of lottery equipment, tickets and related materials. The executive
23 director of the Arizona state lottery commission shall adopt rules
24 substantially equivalent to the policies and procedures in this chapter for
25 procurement relating to the design and operation of the lottery or purchase
26 of lottery equipment, tickets or related materials. All other procurement
27 shall be as prescribed by this chapter.

28 H. The Arizona health care cost containment system administration is
29 exempt from this chapter for provider contracts pursuant to section 36-2904,
30 subsection A and contracts for goods and services, including program
31 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 **AND**
32 **CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36,**

1 **CHAPTER 34.** All other procurement, including contracts for the statewide
2 administrator of the program pursuant to section 36-2903, subsection B, shall
3 be as prescribed by this chapter.

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

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

14 K. The state transportation board and the director of the department
15 of transportation are exempt from this chapter other than section 41-2586 for
16 the procurement of construction or reconstruction, including engineering
17 services, of transportation facilities or highway facilities and any other
18 services that are directly related to land titles, appraisals, real property
19 acquisition, relocation, property management or building facility design and
20 construction for highway development and that are required pursuant to title
21 28, chapter 20.

22 L. The Arizona highways magazine is exempt from this chapter for
23 contracts for the production, promotion, distribution and sale of the
24 magazine and related products and for contracts for sole source creative
25 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
26 All other procurement shall be as prescribed by this chapter.

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

31 N. This chapter is not applicable to contracts for professional
32 witnesses if the purpose of such contracts is to provide for professional

1 services or testimony relating to an existing or probable judicial proceeding
2 in which this state is or may become a party or to contract for special
3 investigative services for law enforcement purposes.

4 0. The head of any state governmental unit, in relation to any
5 contract exempted by this section from this chapter, has the same authority
6 to adopt rules, procedures or policies as is delegated to the director
7 pursuant to this chapter.

8 P. Agreements negotiated by legal counsel representing this state in
9 settlement of litigation or threatened litigation are exempt from this
10 chapter.

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

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

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

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

19 4. With an eligible entity as defined by Public Law 105-285, section
20 ~~673(1)(a)(i)~~ 673(1)(A)(i), as amended, for designated community services
21 block grant program monies and any other monies given to the eligible entity
22 that accomplishes the purpose of Public Law 105-285, section 672.

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

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

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

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

31 ~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS
32 WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS

1 ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to
2 title 36, chapter 30, article 1.

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

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

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

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

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

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

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

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

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

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

7 ~~AA.~~ BB. The department of environmental quality is exempt from this
8 chapter for contracting for procurements relating to the water quality
9 assurance revolving fund program established pursuant to title 49, chapter 2,
10 article 5. The department shall engage in a source selection process that is
11 similar to the procedures prescribed by this chapter. The department may
12 contract for remedial actions with a single selection process. The exclusive
13 remedy for disputes or claims relating to contracting pursuant to this
14 subsection is as prescribed by article 9 of this chapter and the rules
15 adopted pursuant to that article. All other procurement by the department
16 shall be as prescribed by this chapter.

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

21 1. The division does not pay any public monies to an authorized third
22 party.

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

24 3. The director has complied with the requirements prescribed in title
25 28, chapter 13 in selecting an authorized third party.

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

28 ~~DD.~~ EE. The state forester is exempt from this chapter for purchases
29 and contracts relating to wildland fire suppression and pre-positioning
30 equipment resources and for other activities related to combating wildland
31 fires and other unplanned risk activities, including fire, flood, earthquake,

1 wind and hazardous material responses. All other procurement by the state
2 forester shall be as prescribed by this chapter.

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

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

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

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

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

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

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

26 ~~LL.~~ MM. This chapter does not apply to contracts for credit reporting
27 services.

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

30 1. With a provider of family foster care pursuant to section 8-503 or
31 36-554.

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

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

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

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

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

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

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

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

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

2 E. Each committee shall provide independent oversight to:

3 1. Ensure that the rights of clients are protected.

4 2. Provide research in that committee's field.

5 3. Review incidents of possible abuse, neglect or denial of a client's
6 rights.

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

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

12 H. A committee may request from the appropriate department the
13 services of a consultant or department employee to advise it on specific
14 issues. The consultant may be a member of another human rights committee, a
15 department employee or a service provider. Subject to the availability of
16 monies, the appropriate department shall assume the cost of the consultant.
17 A consultant shall not participate in committee votes.

18 I. Subject to federal law, committee members and consultants have
19 access to client information and records maintained by the appropriate
20 department, provider or regional behavioral health authorities to the extent
21 necessary to conduct committee duties. Each person who receives information
22 or records pursuant to this subsection shall maintain the information or
23 records as confidential and sign an agreement to comply with all
24 confidentiality requirements. Any client information or records shall be
25 released to the committee without the designation of personally identifiable
26 information unless the personally identifiable information is required for
27 the official purposes of the committee. **A VIOLATION OF THIS SUBSECTION IS A**
28 **CLASS 2 MISDEMEANOR. FOR THE PURPOSES OF THIS SUBSECTION, "personally**
29 **identifiable information" includes A PERSON'S name, address, date of birth,**
30 **social security number, tribal enrollment number, telephone or telefacsimile**
31 **number, driver license number, places of employment or school identification**
32 **or military identification number or any other distinguishing characteristic**

1 that tends to identify a particular person. ~~A violation of this subsection~~
2 ~~is a class 2 misdemeanor.~~

3 J. If a committee's request for information or records from a
4 department is denied, the committee may request in writing that the director
5 of the appropriate department review this decision. The agency director or
6 designee shall conduct the review within five business days after receiving
7 the request for review. The agency shall bear the costs of conducting the
8 review. A final agency decision made pursuant to this subsection is subject
9 to judicial review pursuant to title 12, chapter 7, article 6. The agency
10 shall not release any information or records during the period an appeal may
11 be filed or is pending.

12 K. Confidential records and information received by the committee or
13 its consultant are subject to the same provisions concerning subpoenas,
14 discovery and use in legal actions as are the original records and
15 information.

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

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

25 41-3955.01. Seriously mentally ill housing trust fund; purpose;
26 report

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

1 B. On notice from the ~~department of health services~~ DIRECTOR OF THE
2 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, the state
3 treasurer shall invest and divest monies in the fund as provided by section
4 35-313, and monies earned from investment shall be credited to the fund.

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

8 D. The director of the ~~department of health services~~ ARIZONA HEALTH
9 CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall report annually to the
10 legislature on the status of the seriously mentally ill housing trust fund.
11 The report shall include a summary of facilities for which funding was
12 provided during the preceding fiscal year and shall show the cost and
13 geographic location of each facility and the number of individuals benefiting
14 from the operation, construction or renovation of the facility. The report
15 shall be submitted to the president of the senate and the speaker of the
16 house of representatives no later than September 1 of each year.

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

19 F. An amount not to exceed ten ~~per cent~~ PERCENT of the seriously
20 mentally ill housing trust fund monies may be appropriated annually by the
21 legislature to the ~~department of health services~~ ARIZONA HEALTH CARE COST
22 CONTAINMENT SYSTEM for administrative costs in providing services relating to
23 the seriously mentally ill housing trust fund.

24 G. For any construction project financed by the ~~department of health~~
25 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant
26 to this section, the ~~department of health services~~ ADMINISTRATION shall
27 notify a city, town, county or tribal government that a project is planned
28 for its jurisdiction and, before proceeding, shall seek comment from the
29 governing body of the city, town, county or tribal government or an official
30 authorized by the governing body of the city, town, county or tribal
31 government. The ~~department of health services~~ ARIZONA HEALTH CARE COST

1 **CONTAINMENT SYSTEM ADMINISTRATION** shall not interfere with or attempt to
2 override the local jurisdiction's planning, zoning or land use regulations.

3 Sec. 86. Report

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

10 Sec. 87. Effective date

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

12 Amend title to conform

JUSTIN OLSON

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