

COMMITTEE ON APPROPRIATIONS

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~~ shall make every reasonable effort to not remove a
9 child who is placed in out-of-home care from school during regular school
10 hours for appointments, visitations or activities not related to school.

11 Sec. 2. Section 11-297, Arizona Revised Statutes, is amended to read:

12 11-297. Seriously mentally ill; county responsibility;
13 definition

14 A. Notwithstanding section 11-291:

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

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

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

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

36 Sec. 3. Section 15-765, Arizona Revised Statutes, is amended to read:

37 15-765. Special education in rehabilitation, corrective or
38 other state and county supported institutions,
39 facilities or homes

40 A. For the purposes of this section and section 15-764, children with
41 disabilities who are being provided with special education in rehabilitation,

1 corrective or other state and county supported institutions or facilities are
2 the responsibility of that institution or facility, including children with
3 disabilities who are not enrolled in a residential program and who are being
4 furnished with daily transportation. Special education programs at the
5 institution or facility shall conform to the conditions and standards
6 prescribed by the director of the division of special education.

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

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

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

46 1. If the child is placed in a private special education program, the
47 chief administrative official of the school district or county or other
48 person designated by the school district or county as responsible for special

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

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

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

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

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

31 1. A residential special education voucher application signed by
32 designated representatives of the state placing agency, as defined in section
33 15-1181, and the home school district, respectively.

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

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

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

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

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

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

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

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

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

46 2. Through an initial or continuing residential education voucher if a
47 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,
33 either for day care or for twenty-four-hour care, neither the school district
34 nor the respective agency is obligated to assume the cost of the private
35 facility. If residential twenty-four-hour care is necessitated by factors
36 such as the child's home condition and is not related to the special
37 educational needs of the child, the agency responsible for the care of the
38 child is not required to pay any additional costs of room and board and
39 nonmedical expenses pursuant to this section.

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

41 15-1181. Definitions

42 In this article, unless the context otherwise requires:

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

45 2. "Foster parent" means a person who may serve as the parent of a
46 child with disabilities if that person has an ongoing, long-term parental
47 relationship with the child, is willing to make educational decisions for the

1 child and has no personal interest that would conflict with the interests of
2 the child.

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

4 4. "Home school district" has the same meaning prescribed in section
5 15-761.

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

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

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

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

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

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

29 9. "Related services" means related services as defined in section
30 15-761.

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

33 11. "Special education" has the same meaning prescribed in section
34 15-761.

35 12. "State placing agency" means the department of juvenile
36 corrections, the department of economic security, the department of child
37 safety, the ~~department of health services~~ ARIZONA HEALTH CARE COST
38 CONTAINMENT SYSTEM or the administrative office of the court.

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

40 36-141. Authority to contract and pay for alcohol and drug
41 abuse services; services to pregnant women; priority

42 A. The ~~deputy~~ director of the ~~division of behavioral health with the~~
43 ~~approval of the director~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
44 ADMINISTRATION is authorized to contract for the development and maintenance
45 of alcohol and drug abuse services from monies available for such purpose
46 with public or private agencies or organizations engaged in providing such
47 preventive, rehabilitative and research services including educational,
48 counseling and research activities directed toward preventing persons from

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.

32 B. The ~~division of behavioral health in the department of health~~
33 ~~services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may use ~~funds~~ MONIES at
34 its disposal, including federal ~~funds~~ MONIES available to the state for this
35 purpose, and not otherwise appropriated to contract for the establishment and
36 maintenance of local mental health facilities and services to be provided by
37 either private or public agencies. ~~Funds~~ MONIES available for this purpose
38 shall be expended only for local mental health facilities and services. The
39 ~~division of behavioral health in the department of health services~~ ARIZONA
40 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall advance or reimburse
41 ~~funds~~ MONIES to local agencies that have submitted and obtained approval of
42 an annual plan and budget. The annual amount of state matching funds
43 provided shall not exceed seventy-five ~~per-cent~~ PERCENT of the total annual
44 amount of ~~funds~~ MONIES and value of in-kind resources used by the agency to
45 establish and maintain local mental health facilities and services.

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

47 36-201. Definitions

48 In this article, unless the context otherwise requires:

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

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

4 ~~3. "Deputy director" means the deputy director of the division of~~
5 ~~behavioral health in the department.~~

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

8 ~~5. "Division" means the division of behavioral health in the~~
9 ~~department of health services.~~

10 ~~6.~~ 4. "Employee" means an officer or employee of the state hospital.

11 ~~7.~~ 5. "State hospital" means Arizona state hospital.

12 ~~8.~~ 6. "Superintendent" means the superintendent of the state
13 hospital.

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

15 36-202. State hospital for the mentally disordered; official
16 name; purpose; facilities and equipment

17 A. A state hospital shall be maintained for the care and treatment of
18 persons with mental disorders, ~~and~~ and persons with other personality disorders
19 or emotional conditions who will benefit from care and treatment. Admissions
20 to the state hospital shall be in accordance with law. The hospital shall be
21 called the Arizona state hospital.

22 B. Subject to legislative appropriation, the state hospital may
23 provide services to persons suffering from alcoholism and to persons
24 suffering from drug abuse.

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

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

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

32 3. Facilities for recreation and physical training.

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

34 5. A properly equipped dental department.

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

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

39 D. The state hospital shall be under the charge and control of the
40 ~~deputy~~ director of the ~~division of behavioral health of the~~ department of
41 health services, pursuant to ~~the provisions of~~ this article ~~and chapter 34 of~~
42 ~~this title.~~

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

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

16 36-208. Employees: compensation

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

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

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

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

31 36-209. Reports by superintendent and director

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

35 1. The number of patients received, conditionally discharged and
36 discharged and voluntary patients treated.

37 2. Methods of treatment used and the results.

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

42 4. Census data for treatment programs pursuant to sections 13-3994,
43 13-4512, 36-202.01 and 36-503.03.

44 5. A complete employment and personnel record.

45 6. The condition of existing equipment.

46 7. Recommendations for improvement of the institution.

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

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

7 1. The amounts appropriated for the current fiscal year for operation,
8 maintenance and improvement.

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

10 3. The balance on hand.

11 4. The estimated expenditures for the current month.

12 5. An inventory report.

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

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

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

24 1. An account of the work done.

25 2. Recommendations for improvements.

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

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

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

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

37 **36-210. Expenditures**

38 A. This article does not give the director or any employee authority
39 to create a debt or obligation in excess of the amount appropriated by the
40 legislature to carry out its provisions. If monies are not appropriated to
41 carry out the purpose of this article, the director shall submit
42 recommendations to the legislature, with a statement of the cost when an
43 improvement is requested.

44 B. Except as provided by subsection D of this section, the director of
45 the department of administration shall not issue a warrant for expenditures
46 by the state hospital in excess of the estimate contained in the monthly
47 financial statement unless the superintendent submits a written request that
48 is approved in writing by the ~~deputy~~ director **OF THE DEPARTMENT OF HEALTH**

1 SERVICES and that states the reasons for the request. The director of the
2 department of administration shall not issue warrants in excess of the amount
3 available for the current quarter.

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

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

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

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

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

21 36-212. Maximum security area required

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

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

31 36-213. Store and canteen; deposit

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

38 B. The superintendent, with the approval of the ~~deputy~~ director, may
39 contract with an outside firm, individual or agency to lease and operate the
40 store and canteen facilities. ~~Such~~ THE outside firm, individual or agency
41 shall provide a bond in an amount set by the superintendent with the approval
42 of the ~~deputy~~ director. The facilities shall be conducted subject to the
43 rules and regulations of the ~~division~~ DEPARTMENT, and rental and service
44 charges shall be established by the superintendent, with the approval of the
45 ~~deputy~~ director, as will reimburse the hospital for the cost thereof.

46 C. Any profits derived from the operation of such facilities, after
47 reimbursement to the hospital, shall be deposited in the department of health
48 services donations fund created by authority of section 36-132, subsection

1 B. The monies may be expended as the ~~deputy~~ director directs for the benefit
2 of the patients of the state hospital. The provisions of title 35, chapter 1
3 do not apply to the monies in the fund.

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

6 36-216. Budget for state hospital

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

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

15 C. MONIES APPROPRIATED TO THE DEPARTMENT FOR THE STATE HOSPITAL
16 PROGRAMS, FEES GENERATED BY THE DEPARTMENT FOR THESE PROGRAMS AND GRANTS AND
17 GIFTS TO THE DEPARTMENT SHALL BE MAINTAINED IN THE APPROPRIATE FUND TO PAY
18 PROGRAM AND ADMINISTRATIVE COSTS. THE ADMINISTRATIVE COSTS OF EACH PROGRAM
19 SHALL BE SEPARATELY IDENTIFIED IN THE ACCOUNTING RECORDS OF THE DEPARTMENT.

20 36-217. State hospital annual report

21 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT TO THE
22 GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF
23 THE SENATE A FINANCIAL AND PROGRAMMATIC REPORT ON THE STATE HOSPITAL FOR THE
24 PRECEDING FISCAL YEAR. THIS REPORT SHALL INCLUDE ALL REVENUES AND
25 EXPENDITURES OF THE STATE HOSPITAL, INCLUDING SPECIFIC IDENTIFICATION OF
26 ADMINISTRATIVE COSTS FOR AND THE NUMBER OF PERSONS SERVED AT THE STATE
27 HOSPITAL.

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

29 36-501. Definitions

30 In this chapter, unless the context otherwise requires:

31 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
32 SYSTEM ADMINISTRATION.

33 ~~1.~~ 2. "Admitting officer" means a psychiatrist or other physician or
34 psychiatric and mental health nurse practitioner with experience in
35 performing psychiatric examinations who has been designated as an admitting
36 officer of the evaluation agency by the person in charge of the evaluation
37 agency.

38 ~~2.~~ 3. "Chief medical officer" means the chief medical officer under
39 the supervision of the superintendent of the state hospital.

40 ~~3.~~ 4. "Contraindicated" means that access is reasonably likely to
41 endanger the life or physical safety of the patient or another person.

42 ~~4.~~ 5. "Court" means the superior court in the county in this state in
43 which the patient resides or was found before screening or emergency
44 admission under this title.

45 ~~5.~~ 6. "Danger to others" means that the judgment of a person who has
46 a mental disorder is so impaired that the person is unable to understand the
47 person's need for treatment and as a result of the person's mental disorder

1 the person's continued behavior can reasonably be expected, on the basis of
2 competent medical opinion, to result in serious physical harm.

3 ~~6.~~ 7. "Danger to self":

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

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

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

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

14 ~~7.~~ 8. "Department" means the department of health services.

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

17 9. "Detention" means the taking into custody of a patient or proposed
18 patient.

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

20 ~~11. "Division" means the division of behavioral health in the~~
21 ~~department.~~

22 ~~12.~~ 11. "Evaluation" means:

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

28 (i) Two licensed physicians, who shall be qualified psychiatrists, if
29 possible, or at least experienced in psychiatric matters, and who shall
30 examine and report their findings independently. The person against whom a
31 petition has been filed shall be notified that the person may select one of
32 the physicians. A psychiatric resident in a training program approved by the
33 American medical association or by the American osteopathic association may
34 examine the person in place of one of the psychiatrists if the resident is
35 supervised in the examination and preparation of the affidavit and testimony
36 in court by a qualified psychiatrist appointed to assist in the resident's
37 training, and if the supervising psychiatrist is available for discussion
38 with the attorneys for all parties and for court appearance and testimony if
39 requested by the court or any of the attorneys.

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

46 (b) A physical examination that is consistent with the existing
47 standards of care and that is performed by one of the evaluating physicians
48 or by or under the supervision of a physician who is licensed pursuant to

1 title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed
2 pursuant to title 32, chapter 15 if the results of that examination are
3 reviewed or augmented by one of the evaluating physicians.

4 ~~13.~~ 12. "Evaluation agency" means a health care agency that is
5 licensed by the department and that has been approved pursuant to this title,
6 providing those services required of such agency by this chapter.

7 ~~14.~~ 13. "Family member" means a spouse, parent, adult child, adult
8 sibling or other blood relative of a person undergoing treatment or
9 evaluation pursuant to this chapter.

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

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

16 16. "Health care entity" means a health care provider, the department,
17 the ~~Arizona health care cost containment system~~ administration or a regional
18 behavioral health authority under contract with the ~~department~~
19 ADMINISTRATION.

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

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

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

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

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

36 (a) Licensed in this state.

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

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

45 23. "Medical director of a mental health treatment agency" means a
46 psychiatrist, or other licensed physician experienced in psychiatric matters,
47 who is designated in writing by the governing body of the agency as the

1 person in charge of the medical services of the agency for the purposes of
2 this chapter and includes the chief medical officer of the state hospital.

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

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

9 (b) The declining mental abilities that directly accompany impending
10 death.

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

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

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

21 27. "Outpatient treatment" or "combined inpatient and outpatient
22 treatment" means any treatment program not requiring continuous inpatient
23 hospitalization.

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

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

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

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

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

36 (b) Substantially impairs the person's capacity to make an informed
37 decision regarding treatment, and this impairment causes the person to be
38 incapable of understanding and expressing an understanding of the advantages
39 and disadvantages of accepting treatment and understanding and expressing an
40 understanding of the alternatives to the particular treatment offered after
41 the advantages, disadvantages and alternatives are explained to that person.

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

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

1 ~~33.~~ 32. "Prepetition screening" means the review of each application
2 requesting court-ordered evaluation, including an investigation of facts
3 alleged in such application, an interview with each applicant and an
4 interview, if possible, with the proposed patient. The purpose of the
5 interview with the proposed patient is to assess the problem, explain the
6 application and, when indicated, attempt to persuade the proposed patient to
7 receive, on a voluntary basis, evaluation or other services.

8 ~~34.~~ 33. "Prescribed form" means a form established by a court or the
9 rules of the ~~division that have been approved by the director or~~
10 ADMINISTRATION in accordance with the laws of this state.

11 ~~35.~~ 34. "Professional" means a physician who is licensed pursuant to
12 title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title
13 32, chapter 19.1 or a psychiatric and mental health nurse practitioner who is
14 certified pursuant to title 32, chapter 15.

15 ~~36.~~ 35. "Proposed patient" means a person for whom an application for
16 evaluation has been made or a petition for court-ordered evaluation has been
17 filed.

18 ~~37.~~ 36. "Psychiatric and mental health nurse practitioner" means a
19 registered nurse practitioner as defined in section 32-1601 who has completed
20 an adult or family psychiatric and mental health nurse practitioner program
21 and who is certified as an adult or family psychiatric and mental health
22 nurse practitioner by the state board of nursing.

23 ~~38.~~ 37. "Psychiatrist" means a licensed physician who has completed
24 three years of graduate training in psychiatry in a program approved by the
25 American medical association or the American osteopathic association.

26 ~~39.~~ 38. "Psychologist" means a person who is licensed under title 32,
27 chapter 19.1 and who is experienced in the practice of clinical psychology.

28 ~~40.~~ 39. "Records" means all communications that are recorded in any
29 form or medium and that relate to patient examination, evaluation or
30 behavioral or mental health treatment. Records include medical records that
31 are prepared by a health care provider or other providers. Records do not
32 include:

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

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

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

43 ~~42.~~ 41. "Social worker" means a person who has completed two years of
44 graduate training in social work in a program approved by the council of
45 social work education and who has experience in mental health.

46 ~~43.~~ 42. "State hospital" means the Arizona state hospital.

47 ~~44.~~ 43. "Superintendent" means the superintendent of the state
48 hospital.

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

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

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

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

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

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

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

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

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

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

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

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

9 Sec. 22. Repeal; transfer of monies

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

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

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

16 36-504. Notice of patients' rights; notification to family

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

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

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

42 36-511. Quality of treatment

43 A. Subject to ~~his~~ THE right to refuse psychiatric and medical
44 treatment pursuant to sections 36-512 and 36-513 and pursuant to rules of the
45 ~~division ADMINISTRATION,~~ every person undergoing evaluation or treatment
46 pursuant to this chapter shall receive physical and psychiatric care and
47 treatment, delivered in a manner that allows the person's family members or
48 guardian to participate in ~~his~~ THE care and treatment when appropriate, for

1 the full period ~~he~~ THE PERSON is detained. The agency providing care and
2 treatment shall keep a clinical record for each person ~~which~~ THAT details all
3 medical and psychiatric evaluations and all care and treatment received by
4 the person.

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

7 1. A written treatment program based on the individual needs of the
8 person.

9 2. Careful and periodic reexaminations of each person by appropriate
10 professional persons, including a physician. Reexaminations shall be made
11 once each ninety days, and the results shall be a part of the person's
12 medical record.

13 3. A full physical examination once a year.

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

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

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

25 36-518. Application for voluntary admission; admission to
26 agency; minors; transportation

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

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

47 C. A minor may be admitted to a mental health agency as defined in
48 section 8-201 by the written application of the parent, guardian or custodian

1 of the minor, or a person designated by the court if the parent, guardian or
2 custodian is without monetary resources to file an application or could not
3 be located after reasonable efforts and the minor is under the supervision of
4 an adult probation department after the following has occurred:

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

8 2. An interview with the child by the medical director of the mental
9 health agency.

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

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

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

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

25 E. All emergency admissions for mental health evaluation or treatment
26 of children shall be made pursuant to the standards and procedures in article
27 4 of this chapter.

28 F. If a parent, guardian or custodian is unavailable after a
29 reasonable effort has been made to locate the parent, guardian or custodian,
30 the court shall appoint a guardian for the child pursuant to title 14,
31 chapter 5.

32 G. The board of supervisors of the county of residence of a person who
33 has submitted an application for admission to the state hospital pursuant to
34 subsection A of this section shall provide transportation to the state
35 hospital for the person if it appears that the person is eligible for
36 voluntary admission to the state hospital after consultation between the
37 state hospital and the evaluation or screening agency. The county is
38 responsible for that expense to the extent the expense is not covered by any
39 third-party payor.

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

41 36-520. Application for evaluation; definition

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

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

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

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

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

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

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

18 C. The application shall be signed and notarized.

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

26 E. If the applicant for the court-ordered evaluation presents the
27 person to be evaluated at the screening agency, the agency shall conduct a
28 prepetition screening examination. Except in the case of an emergency
29 evaluation, the person to be evaluated shall not be detained or forced to
30 undergo prepetition screening against the person's will.

31 F. If the applicant for the court-ordered evaluation does not present
32 the person to be evaluated at the screening agency, the agency shall conduct
33 the prepetition screening at the home of the person to be evaluated or any
34 other place the person to be evaluated is found. If prepetition screening is
35 not possible, the screening agency shall proceed as in section 36-521,
36 subsection B.

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

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

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

1 J. For the purposes of this section, "person" includes a person who:
2 1. Is under eighteen years of age.
3 2. Has been transferred to the criminal division of the superior court
4 pursuant to section 8-327 or who has been charged with an offense pursuant to
5 section 13-501.

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

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

8 36-521. Preparation of petition for court-ordered evaluation:
9 procedures for prepetition screening

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

19 B. After prepetition screening has been completed, the screening
20 agency shall prepare a report of opinions and conclusions. If prepetition
21 screening is not possible, the screening agency shall prepare a report giving
22 reasons why the screening was not possible and including opinions and
23 conclusions of staff members who attempted to conduct prepetition screening
24 or otherwise investigated the matter.

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

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

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

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

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

8 1. That a criminal investigation is warranted.

9 2. That the screening agency shall file the petition.

10 3. That no further proceedings are warranted. The screening agency
11 shall consider ~~such~~ THE recommendation in determining whether a court-ordered
12 evaluation is justified and shall include ~~such~~ THE recommendation with the
13 petition if ~~it~~ THE AGENCY decides to file the petition with the court.

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

16 Sec. 28. Section 36-522, Arizona Revised Statutes, is amended to read:

17 36-522. Voluntary evaluation

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

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

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

37 Sec. 29. Section 36-523, Arizona Revised Statutes, is amended to read:

38 36-523. Petition for evaluation

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

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

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

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

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

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

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

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

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

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

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

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

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

33 Sec. 30. Section 36-531, Arizona Revised Statutes, is amended to read:
34 36-531. Evaluation; possible dispositions; release

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

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

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

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

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

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

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

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

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

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

47 D. The ~~division~~ DEPARTMENT, acting on behalf of the state hospital,
48 THE ADMINISTRATION OR A REGIONAL BEHAVIORAL HEALTH AUTHORITY, may intervene

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

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

19 **36-540.02.** Transfer of a person with a grave disability without
20 a guardian from a mental health treatment agency
21 to another health care facility

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

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

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

37 **36-541.01.** Release or discharge from treatment before
38 expiration of period ordered by court;
39 notification of intent to release or discharge;
40 hearing

41 A. A patient **WHO IS** ordered to undergo treatment pursuant to this
42 article may be released from treatment before the expiration of the period
43 ordered by the court if, in the opinion of the medical director of the mental
44 health treatment agency, the patient no longer is, as a result of a mental
45 disorder, a danger to others,~~—~~ **OR** a danger to self,~~—~~ **OR NO LONGER** has a
46 persistent or acute disability or a grave disability. A person **WHO IS**
47 ordered to undergo treatment as a danger to others may not be released or
48 discharged from treatment before the expiration of the period for treatment

1 ordered by the court unless the medical director first gives notice of
2 intention to do so as provided by this section.

3 B. Before the release or discharge of a patient WHO IS ordered to
4 undergo treatment, the medical director of the mental health treatment agency
5 shall notify the following of the medical director's intention to release or
6 discharge the patient:

7 1. The presiding judge of the court that entered the order for
8 treatment.

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

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

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

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

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

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

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

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

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

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

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

39 7. The mental health number assigned to the case by the superior
40 court.

41 F. If the court receives a demand for notice by a relative or victim,
42 the court shall order the medical director of the mental health treatment
43 agency not to release or discharge the patient before the expiration of the
44 period of court-ordered treatment without first giving notice to the relative
45 or victim as provided in subsection G OF THIS SECTION. After considering a
46 petition for notice, if the court finds that the petitioner has a legitimate
47 reason for receiving prior notice, the court may order the medical director
48 of the mental health treatment agency not to release or discharge the patient

1 from inpatient treatment before the expiration of the period of court-ordered
2 treatment without first giving notice to the petitioner as provided in
3 subsection G OF THIS SECTION. Any order for notice shall be delivered to the
4 mental health treatment agency and shall be filed with the patient's clinical
5 record. If the patient is transferred to another agency or institution, any
6 orders for notice shall be transferred with the patient.

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

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

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

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

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

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

2 36-543. Release from treatment of a patient with a grave
3 disability or a persistent or acute disability;
4 annual review; court order for continued treatment;
5 rules

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

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

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

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

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

43 1. The examiner's opinions as to whether the patient continues to have
44 a grave disability or a persistent or acute disability as the result of a
45 mental disorder and BE in need of continued court-ordered treatment. In
46 evaluating the patient's need for continued court-ordered treatment, the
47 examiner must consider, along with all other evidence, the patient's history
48 before and during the current period of court-ordered treatment, the

1 patient's compliance with recommended treatment and any other evidence
2 relevant to the patient's ability and willingness to follow recommended
3 treatment with or without a court order.

4 2. A statement as to whether suitable alternatives to court-ordered
5 treatment are available.

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

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

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

21 6. The results of any physical examination conducted during the period
22 of court-ordered treatment if relevant to the psychiatric condition of the
23 patient.

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

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

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

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

43 3. If a hearing is not requested, the court shall rule on the
44 application or set the matter for hearing. If a hearing is requested, the
45 hearing shall be held within three weeks after the request for hearing is
46 filed. The hearing may be continued for good cause on motion of a party or
47 on the court's own motion, and the expiration of the current court order for

1 treatment may be extended until a ruling by the court on an application filed
2 pursuant to this subsection.

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

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

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

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

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

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

5 3. The patient is either unwilling or unable to accept treatment
6 voluntarily.

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

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

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

18 36-545.01. Payment of costs and expenses; ability to pay; power
19 and duty of court; acceptance of other benefits;
20 per capita cost limitation; guardians; parental
21 liability; lien; duty of county attorney

22 A. When a patient is admitted to the state hospital for court-ordered
23 treatment pursuant to article 5 of this chapter or pursuant to section
24 13-3994, the business manager of the state hospital shall inquire into the
25 ability of the patient to pay the costs of examination, maintenance and
26 treatment. The business manager shall file with the clerk of the court a
27 written report of the manager's findings and the basis of those findings.

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

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

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

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

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

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

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

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

22 Sec. 36. Section 36-545.05, Arizona Revised Statutes, is amended to
23 read:

24 36-545.05. Charges for treatment by agencies under
25 administration contract; charges for prepetition
26 screening and court-ordered evaluation prohibited

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

30 B. When a patient is given voluntary treatment pursuant to ~~the~~
31 ~~provisions of~~ article 3 of this chapter or court-ordered treatment pursuant
32 to ~~the provisions of~~ article 5 of this chapter, the patient or proposed
33 patient ~~will~~ SHALL pay all or such portion of the established charges as the
34 patient can afford. If the patient is indigent, no charges shall be made
35 against ~~him~~ THE PATIENT.

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

38 36-545.06. County services

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

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

44 C. Each county shall coordinate the provision of mental health
45 services required pursuant to this section with the ~~division of behavioral~~
46 ~~health in the department of health services~~ ADMINISTRATION OR REGIONAL
47 BEHAVIORAL HEALTH AUTHORITY.

1 mentally ill ~~which~~ THAT provides a wide range of services as alternatives to
2 institutionalization and in the least restrictive setting.

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

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

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

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

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

19 36-550.01. Statewide plan for community residential treatment

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

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

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

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

34 3. Goals, objectives and priorities for the delivery of such services
35 and methods to evaluate program effectiveness of goals, objectives and
36 priorities.

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

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

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

1 7. An analysis of the availability of alternative, less costly or more
2 effective methods to provide the services.

3 B. The ~~deputy~~ director shall establish criteria for determining the
4 eligibility of county applicants for community residential treatment system
5 planning grants. ~~Such~~ ~~THE~~ criteria may include requiring each county
6 applicant to provide local matching ~~funds~~ ~~MONIES~~ for community residential
7 treatment system planning. If local matching ~~funds~~ ~~MONIES~~ are required, the
8 matching requirement for state ~~funds~~ ~~MONIES~~ is seventy-five ~~per cent~~ ~~PERCENT~~
9 state and twenty-five ~~per cent~~ ~~PERCENT~~ from local or other sources.

10 Sec. 46. Section 36-556, Arizona Revised Statutes, is amended to read:

11 ~~36-556.~~ 36-556. Coordination with department of health services; duties
12 of department

13 The department ~~OF ECONOMIC SECURITY~~ shall coordinate with the ~~division~~
14 ~~of behavioral health in the~~ department of health services in:

15 1. The development of specialized programs for persons with
16 developmental disabilities at the state hospital.

17 2. Planning and providing residential care services and related child,
18 adult and resource services for persons with developmental disabilities ~~upon~~
19 ~~ON~~ their discharge from the state hospital, in accordance with section
20 36-560. The ~~division of behavioral health~~ ~~DEPARTMENT OF HEALTH SERVICES~~
21 shall provide ~~THE DEPARTMENT OF ECONOMIC SECURITY WITH~~ notice fifteen days
22 ~~prior to~~ ~~BEFORE~~ discharge.

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

25 ~~36-2021.~~ 36-2021. Definitions

26 In this chapter, unless the context otherwise requires:

27 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
28 SYSTEM ADMINISTRATION.

29 ~~1.~~ 2. "Alcoholic" means a person who habitually lacks self-control
30 with respect to the use of alcoholic beverages or who uses alcoholic
31 beverages to the extent that ~~his~~ ~~THE PERSON'S~~ health is substantially
32 impaired or endangered or ~~his~~ social or economic functions are substantially
33 disrupted.

34 ~~2.~~ 3. "Approved private treatment facility" means a private agency
35 meeting the standards established by the ~~division~~ ~~DEPARTMENT~~ and approved
36 pursuant to sections 36-2023 and 36-2029.

37 ~~3.~~ 4. "Approved public treatment facility" means a treatment agency
38 operating under the directions and control of a county, providing treatment
39 through a contract with a county, meeting the standards established by the
40 ~~division~~ ~~DEPARTMENT~~ and approved pursuant to sections 36-2023 and 36-2029.

41 ~~4.~~ 5. "Chronic alcoholic" means an alcoholic who is incapacitated by
42 alcohol and who during the preceding twelve months has been admitted to a
43 local alcoholism reception center on ten or more occasions or has been
44 admitted for three or more episodes of inpatient or residential alcoholism
45 treatment.

46 ~~5.~~ 6. "Court" means a court of record, a justice of the peace court,
47 a police court or a city court authorized by charter.

48 ~~6.~~ 7. "Department" means the department of health services.

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

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

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

7 ~~10.~~ 9. "Evaluation" means A multidisciplinary professional analysis
8 of a person's medical, psychological, social, financial and legal conditions.
9 Persons providing evaluation services shall be properly qualified
10 professionals and may be full-time employees of an approved treatment
11 facility providing evaluation services or may be part-time employees or may
12 be employed on a contractual basis.

13 ~~11.~~ 10. "Incapacitated by alcohol" means that a person as a result of
14 the use of alcohol is unconscious or has ~~his~~ judgment otherwise so impaired
15 that ~~he~~ THE PERSON is incapable of realizing and making a rational decision
16 with respect to ~~his~~ THE PERSON'S need for evaluation and treatment, is unable
17 to take care of ~~his~~ basic personal needs or safety such as food, clothing,
18 shelter or medical care or lacks sufficient understanding or capacity to make
19 or communicate rational decisions ~~concerning himself~~.

20 ~~12.~~ 11. "Intoxicated person" means a person whose mental or physical
21 functioning is substantially impaired as a result of the immediate effects of
22 alcohol in ~~his~~ THE PERSON'S system.

23 ~~13.~~ 12. "Local alcoholism reception center" or "center" means an
24 initial reception agency for a person who is intoxicated or who is
25 incapacitated by alcohol to receive initial evaluation and processing for
26 assignment for further evaluation or into a treatment program.

27 ~~14.~~ 13. "Treatment" means the broad range of emergency, outpatient,
28 intermediate and inpatient services and care, including diagnostic
29 evaluation, medical, psychiatric, psychological and social service care,
30 vocational rehabilitation and career counseling, which may be extended to
31 alcoholics and intoxicated persons.

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

34 36-2022. Establishment of facilities

35 A. The ~~division, with the approval of the director,~~ ADMINISTRATION
36 shall develop, encourage and foster statewide, county and local plans and
37 programs for the prevention of alcoholism and treatment of alcoholics and
38 intoxicated persons in cooperation with public and private agencies,
39 organizations and individuals and provide technical assistance and
40 consultation services for these purposes.

41 B. Counties may establish a public treatment facility or facilities
42 for the evaluation and treatment of alcoholics and intoxicated persons by
43 resolution of the board of supervisors.

44 C. Counties may contract with other counties for the services of a
45 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.

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

35 C. The ~~department~~ **ADMINISTRATION** shall:

36 1. Enlist the assistance of all public and private agencies,
37 organizations and individuals engaged in the prevention of alcoholism and
38 treatment of alcoholics and intoxicated persons at approved public and
39 private facilities.

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

44 3. Cooperate with the department of education, schools, police
45 departments, courts and other public and private agencies, organizations and
46 individuals in establishing programs for the prevention of alcoholism and
47 treatment of alcoholics and intoxicated persons and in preparing curriculum
48 materials for use at all levels of school education.

1 4. Specify a uniform method for keeping statistical information by
2 approved public and private treatment facilities and collect and make
3 available relevant statistical information, including the number of persons
4 treated, frequency of admission, and readmission and frequency and duration
5 of treatment.

6 5. Cooperate with the department of transportation in establishing and
7 conducting programs designed to deal with the problem of persons operating
8 motor vehicles while intoxicated.

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

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

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

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

19 (d) A description of the demographic characteristics of the client
20 population served by each program, including age groups, gender and
21 ethnicity.

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

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

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

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

29 36-2024. Treatment of alcoholics

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

35 B. Subject to rules adopted by the ~~division, with the approval of the~~
36 ~~director~~ DEPARTMENT, the administrator in charge of any approved public or
37 private treatment facility may determine who shall be admitted for evaluation
38 and treatment. If a person is refused admission to an approved private
39 treatment facility because of financial reasons, the administrator in charge,
40 subject to rules established by the ~~division, with the approval of the~~
41 ~~director~~ DEPARTMENT, shall refer the person to an approved public treatment
42 facility for treatment, if possible and appropriate.

43 C. If a patient WHO IS receiving inpatient care leaves an approved
44 treatment facility, ~~he~~ THE PATIENT shall be encouraged to consent to
45 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, ~~who~~
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
33 a reasonable effort to provide adequate local alcoholism reception services
34 for persons incapacitated by alcohol and, based on that determination, has
35 issued a renewable three-month temporary waiver to allow the transportation
36 of certain intoxicated persons in the city, town or county to detention
37 facilities pursuant to this section. The determination may be made by the
38 ~~deputy~~ director OF THE DEPARTMENT on application by the governing body of the
39 city or town or the board of supervisors of a county.

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

46 E. The administrator in charge of an approved local alcoholism
47 reception center shall discharge any person admitted pursuant to this section
48 not more than twenty-four hours, excluding weekends and holidays, after the

1 person requests to be discharged or after the administrator on advice of the
2 medical staff determines that the grounds for admission no longer exist.

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

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

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

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

16 36-2028. Payment for treatment; financial ability of patient or
17 guardian

18 A. A patient WHO IS being treated by an approved treatment facility or
19 the estate of the patient, or a person WHO IS obligated to provide the cost
20 of the evaluation and treatment and having sufficient financial ability, is
21 liable to the approved treatment facility for the cost of evaluation and
22 treatment of the patient. FOR A PERSON WHO IS DETERMINED TO BE ELIGIBLE FOR
23 COVERAGE THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, FINANCIAL
24 LIABILITY SHALL BE ESTABLISHED in accordance with the ~~rates~~ RULES established
25 by the ~~division~~ ADMINISTRATION.

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

32 C. Each approved treatment facility shall furnish the ~~division~~
33 ADMINISTRATION with such information as it requires to enable it to establish
34 and maintain a cost reporting system of the cost of the evaluation and
35 treatment. Each approved treatment facility shall ~~insure~~ ENSURE that records
36 are maintained containing such information and in such form as the ~~division~~
37 ~~shall require~~ ADMINISTRATION REQUIRES for the purposes of this section.

38 D. The ~~division~~ ADMINISTRATION shall prepare and adopt patient fee
39 schedules to be used by approved treatment facilities for services rendered
40 to each patient WHO IS DETERMINED TO BE ELIGIBLE FOR COVERAGE THROUGH THE
41 ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AND WHO IS afflicted with
42 alcoholism. In preparing ~~such~~ patient fee schedules, the ~~division~~
43 ADMINISTRATION shall take into account the existing charges for available
44 services. The ~~division~~ ADMINISTRATION is not prohibited from including the
45 amount of expenditures for capital outlay in its determination of the fee
46 schedules.

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

3 36-2029. Funding of facilities; contracts; limitations

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

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

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

28 D. An approved private or public treatment facility providing
29 evaluation and treatment may receive state funding ~~upon~~ ON complying with the
30 rules ~~and regulations~~ established by the ~~division~~ DEPARTMENT AND THE
31 ADMINISTRATION. Any such facility is not eligible for state funding until
32 approved by the ~~deputy director~~ ADMINISTRATION.

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

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

40 36-2051. Definition of federal act

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

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

44 ~~2. "Division" means the division of behavioral health in the~~
45 ~~department of health services.~~

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

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

3 36-2052. Designation of state agency

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

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

8 36-2901. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Administration" means the Arizona health care cost containment
11 system administration.

12 2. "Administrator" means the administrator of the Arizona health care
13 cost containment system.

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

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

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

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

23 (a) Any of the following:

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

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

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

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

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

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

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

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

47 (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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 9. Podiatry services ordered by a primary care physician or primary
2 care practitioner.

3 10. Nonexperimental transplants approved for title XIX reimbursement.

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

6 12. Hospice care.

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

9 1. Circumcision of newborn males is not a covered health and medical
10 service.

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

12 (a) Outpatient health services do not include occupational therapy or
13 speech therapy.

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

18 (c) Percussive vests and orthotics are not covered health and medical
19 services.

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

21 (e) Podiatry services do not include services performed by a
22 podiatrist.

23 (f) Nonexperimental transplants do not include pancreas-only
24 transplants.

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

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

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

38 E. The director shall make available home health services in lieu of
39 hospitalization pursuant to contracts awarded under this article. For the
40 purposes of this subsection, "home health services" means the provision of
41 nursing services, home health aide services or medical supplies, equipment
42 and appliances that are provided on a part-time or intermittent basis by a
43 licensed home health agency within a member's residence based on the orders
44 of a physician or a primary care practitioner. Home health agencies shall
45 comply with the federal bonding requirements in a manner prescribed by the
46 administration.

47 F. The director shall adopt rules for the coverage of behavioral
48 health services for persons who are eligible under section 36-2901, paragraph

1 6, subdivision (a). ~~The administration shall contract with the department of~~
2 ~~health services for the delivery of all medically necessary behavioral health~~
3 ~~services to persons who are eligible under rules adopted pursuant to this~~
4 ~~subsection. The division of behavioral health in the department of health~~
5 ~~services~~ THE ADMINISTRATION ACTING THROUGH THE REGIONAL BEHAVIORAL HEALTH
6 AUTHORITIES shall establish a diagnostic and evaluation program to which
7 other state agencies shall refer children who are not already enrolled
8 pursuant to this chapter and who may be in need of behavioral health
9 services. In addition to an evaluation, the ~~division of behavioral health~~
10 ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall
11 also identify children who may be eligible under section 36-2901, paragraph
12 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the
13 children to the appropriate agency responsible for making the final
14 eligibility determination.

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

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

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

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

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

3 1. Emergency services and specialty services provided pursuant to
4 section 36-2908.

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

15 L. 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 including, but not limited
18 to, making health care services available to underserved areas, reducing
19 costs of providing medical care and reducing transportation costs.

20 M. The director shall adopt rules that prescribe the coordination of
21 medical care for persons who are eligible for system services. The rules
22 shall include provisions for the transfer of patients, the transfer of
23 medical records and the initiation of medical care.

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

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

28 36-2989. Covered health and medical services; modifications;
29 related delivery of service requirements

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

32 1. Inpatient hospital services that are ordinarily furnished by a
33 hospital for the care and treatment of inpatients, that are medically
34 necessary and that are provided under the direction of a physician or a
35 primary care practitioner. For the purposes of this paragraph, inpatient
36 hospital services exclude services in an institution for tuberculosis or
37 mental diseases unless authorized by federal law.

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

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

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

48 5. Medical supplies, equipment and prosthetic devices.

1 6. Treatment of medical conditions of the eye, including eye
2 examinations for prescriptive lenses and the provision of prescriptive lenses
3 for members.

4 7. Medically necessary dental services.

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

6 9. Family planning services that do not include abortion or abortion
7 counseling. If a contractor elects not to provide family planning services,
8 this election does not disqualify the contractor from delivering all other
9 covered health and medical services under this article. In that event, the
10 administration may contract directly with another contractor, including an
11 outpatient surgical center or a noncontracting provider, to deliver family
12 planning services to a member who is enrolled with a contractor who elects
13 not to provide family planning services.

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

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

22 12. Medically necessary emergency and nonemergency transportation.

23 13. Inpatient and outpatient behavioral health services that are the
24 same as the least restrictive health benefits coverage plan for behavioral
25 health services that are offered through a health care services organization
26 for state employees under section 38-651.

27 14. Hospice care.

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

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

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

35 E. Behavioral health services shall be provided to members through the
36 administration's ~~intergovernmental agreement with the division of behavioral~~
37 ~~health in the department of health services~~ CONTRACTORS. The ~~division of~~
38 ~~behavioral health in the department of health services~~ ADMINISTRATION ACTING
39 THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall use its established
40 diagnostic and evaluation program for referrals of children who are not
41 already enrolled pursuant to this article and who may be in need of
42 behavioral health services. In addition to an evaluation, the ~~division of~~
43 ~~behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH
44 AUTHORITIES shall also identify children who may be eligible under section
45 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and
46 shall refer the children to the appropriate agency responsible for making the
47 final eligibility determination.

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

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

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

11 1. Emergency services and specialty services.

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

21 I. Covered outpatient services shall be subcontracted by a primary
22 care physician or primary care practitioner to other licensed health care
23 providers to the extent practicable for purposes of making health care
24 services available to underserved areas, reducing costs of providing medical
25 care and reducing transportation costs.

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

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

32 Sec. 59. Heading change

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

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

38 36-3401. Definitions

39 In this chapter, unless the context otherwise requires:

40 1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT
41 SYSTEM ADMINISTRATION.

42 ~~1.~~ 2. "Advisory council" means the Arizona state advisory council on
43 the seriously mentally ill.

44 ~~2.~~ 3. "Children" means persons who are under the age of nineteen
45 years or persons who are under the age of twenty-two years and enrolled in an
46 educational facility.

47 ~~3.~~ 4. "Clean claim" means a claim that can be processed without
48 obtaining additional information from the service provider or from a third

1 party. Clean claim does not include claims under investigation for fraud or
2 abuse or claims under review for medical necessity.

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

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

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

8 ~~7. "Division" means the division of behavioral health in the
9 department of health services.~~

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

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

18 Sec. 61. Repeal

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

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

22 36-3403. Powers and duties of the director; study; capitation
23 rates

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

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

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

33 3. Contract and incur obligations which THAT are reasonably necessary
34 within the general scope of the division ADMINISTRATION.

35 4. Adopt rules which THAT are necessary to carry out the requirements
36 of the division ADMINISTRATION.

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

39 6. Use monies, facilities or services to provide matching
40 contributions under federal or other programs which THAT further the
41 objectives and programs of the division ADMINISTRATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~3.~~ 2. A proposed budget for services for each behavioral health
7 program.

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

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

17 36-3405. Annual report; reports

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

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

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

31 ~~5. The Arizona state hospital.~~

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

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

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

43 36-3406. Arizona state advisory council on the seriously
44 mentally ill; membership; compensation; duties

45 A. The Arizona state advisory council on the seriously mentally ill is
46 established.

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

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

3 2. One service provider.

4 3. One member representing a behavioral health contract agency in an
5 urban area.

6 4. One member representing a behavioral health contract agency in a
7 rural area.

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

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

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

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

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

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

19 F. The ~~division~~ ADMINISTRATION shall provide necessary staff services
20 to the advisory council.

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

23 H. Appointed members of the advisory council shall serve staggered
24 three-year terms.

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

27 36-3407. Services; contract

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

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

32 2. Coordinated screening and intake.

33 3. A coordinated service delivery system.

34 4. Coordinated case management and individualized treatment planning
35 for each client.

36 5. Ongoing family participation in the planning for and selection of
37 continuum of care services.

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

41 (a) Home-based services.

42 (b) Prevention and early intervention.

43 (c) Psychiatric evaluation and consultation.

44 (d) Ancillary support services.

45 (e) Crisis intervention, including short-term and mobile crisis
46 stabilization.

47 (f) Outpatient counseling.

48 (g) Residential treatment services.

- 1 (h) Case management.
- 2 (i) Partial care services.
- 3 (j) Secure residential treatment services.
- 4 (k) Residential treatment services for clients discharged from the
- 5 Arizona state hospital.
- 6 (l) Hospitalization services.
- 7 (m) Psychotropic medication services.
- 8 (n) Independent living services.
- 9 (o) Detoxification services.
- 10 (p) Respite care.
- 11 (q) Vocational rehabilitation.
- 12 (r) Transportation.
- 13 (s) Socialization and recreation.

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

16 36-3408. Eligibility for behavioral health service system:
17 screening process: required information

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

42 B. Applicants who refuse to cooperate in the financial screening and
43 eligibility process are not eligible for services pursuant to this chapter.
44 A form explaining loss of benefits due to refusal to cooperate shall be
45 signed by the applicant. Refusal to cooperate shall not be construed to mean
46 the applicant's inability to obtain documentation required for eligibility
47 determination. The department of economic security ~~and the Arizona health~~
48 ~~care cost containment system administration~~ shall promptly inform the

1 ~~department of health services~~ ADMINISTRATION of the applications that are
2 denied based on an applicant's failure to cooperate with the eligibility
3 determination process and, on request, of applicants who do not submit an
4 application as required by this section.

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

9 D. This section only applies to persons who receive services that are
10 provided pursuant to this section and that are paid for in whole or in part
11 with state funds MONIES.

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

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

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

20 36-3409. Fee requirements; fee schedules

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

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

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

30 36-3410. Regional behavioral health authorities; contracts;
31 monthly summaries; inspection; copying fee;
32 children's behavioral health and seriously mentally
33 ill services

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

1 determines to be critical for proper regulation and oversight of the regional
2 behavioral health authority or the direct contract service provider.

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

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

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

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

22 2. Until the provider in question reorganizes or otherwise corrects
23 the contract performance failure.

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

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

31 G. The summaries and the contracts on which they are based are open to
32 public inspection. The ~~department~~ ADMINISTRATION and each regional
33 behavioral health authority or direct contract service provider shall make
34 the summaries available for inspection and copying at the office of each
35 regional behavioral health authority or direct contract service provider and
36 at the ~~department~~ ADMINISTRATION.

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

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

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

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

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

7 36-3411. Behavioral health services; timely reimbursement;
8 penalties

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

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

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

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

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

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

46 G. This section does not apply to services provided by a hospital
47 pursuant to section 36-2903.01, subsection G, or section 36-2904, subsection
48 H or I.

1 Sec. 71. Repeal

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

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

5 36-3412. Contracts; regional behavioral health authorities

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

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

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

13 2. FOR THE MAINTENANCE OF DEPOSITS, PERFORMANCE BONDS, FINANCIAL
14 RESERVES OR OTHER FINANCIAL SECURITY.

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

19 4. AUTHORIZING THE ADMINISTRATION TO OPERATE A REGIONAL BEHAVIORAL
20 HEALTH AUTHORITY DIRECTLY.

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

25 D. DURING ANY PERIOD IN WHICH SERVICES ARE NEEDED AND NO CONTRACT
26 EXISTS, THE DIRECTOR MAY EMPLOY ANY OF THE OPTIONS AUTHORIZED BY SECTION
27 36-2904, SUBSECTION B.

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

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

36 G. REGIONAL BEHAVIORAL HEALTH AUTHORITIES ARE SUBJECT TO SECTION
37 36-2905.

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

40 36-3413. Grievance and appeal process

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

47 B. The process shall be as prescribed in title 41, chapter 6, article
48 10, SUBJECT TO THE EXCEPTIONS IN SECTION 36-2903.01, SUBSECTION B, PARAGRAPH

1 4 AND RULES ADOPTED BY THE DIRECTOR, for grievances and appeals filed by
2 regional behavioral health authorities and by service providers and
3 individuals receiving and requesting services that have already exhausted the
4 regional behavioral health authority grievance and appeal process. In the
5 case of individuals receiving behavioral health services by a service
6 provider that has contracted directly with the ~~department~~ ADMINISTRATION
7 instead of through a regional behavioral health authority, the ~~department's~~
8 ADMINISTRATION'S grievance and appeal process is considered the primary
9 process.

10 ~~C. For individuals who are eligible for services pursuant to chapter~~
11 ~~29 of this title or service providers registered with the Arizona health care~~
12 ~~cost containment system administration, the department or the regional~~
13 ~~behavioral health authority shall provide notice that the individuals or~~
14 ~~providers may appeal a decision rendered by the department to the Arizona~~
15 ~~health care cost containment system administration if the disputed decision~~
16 ~~involves services or payments authorized under chapter 29 of this title.~~

17 ~~D. Individuals who are eligible for behavioral health services~~
18 ~~pursuant to chapter 29 of this title and who are appealing the denial,~~
19 ~~reduction, termination or suspension of a title XIX behavioral health service~~
20 ~~may appeal directly to the Arizona health care cost containment system for an~~
21 ~~expedited hearing pursuant to rules adopted by the director of Arizona health~~
22 ~~care cost containment system.~~

23 Sec. 74. Repeal

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

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

27 36-3415. Behavioral health expenditures; annual report

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

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

37 36-3431. Comprehensive behavioral health service system for
38 children; administration duties

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

- 42 1. Annual needs assessment and resource assessment studies.
- 43 2. Annual planning to develop policy issues, programs and services.
- 44 3. Community education to increase public awareness of the needs of
45 children.
- 46 4. Centralized and coordinated screening and intake.
- 47 5. Coordinated case management.
- 48 6. A continuum of treatment services, which may include the following:

- 1 (a) Home-based services.
2 (b) Prevention and early intervention.
3 (c) Psychological evaluation and consultation.
4 (d) Ancillary support services.
5 (e) Crisis intervention.
6 (f) Outpatient counseling.
7 (g) Independent living services.
8 (h) Secure residential treatment services for seriously emotionally
9 disturbed children.
10 (i) Residential treatment services for children's substance abuse.
11 (j) Psychiatric hospitalization services.
12 7. Evaluation ~~which~~ THAT determines both cost effectiveness and client
13 outcome.
14 B. Subject to legislative appropriation, the ~~division~~ ADMINISTRATION
15 shall ~~systematically establish~~ MAINTAIN the system identified in subsection A
16 OF THIS SECTION ~~over a five year period ending on June 30, 1993.~~
17 C. For the purposes of developing needs assessments and resource
18 assessments and for planning, the ~~division~~ ADMINISTRATION may consult and
19 coordinate with any state agency established for that purpose.
20 Sec. 77. Section 36-3432, Arizona Revised Statutes, is amended to
21 read:
22 36-3432. System plan; annual report
23 The ~~division~~ ADMINISTRATION shall develop a plan for each fiscal year
24 identifying the services, the estimated number of clients and an
25 appropriations request for the purposes of systematic development and
26 implementation of the comprehensive behavioral health service system for
27 children. The plan shall be presented to the speaker of the house of
28 representatives, the president of the senate and the governor on or before
29 November 1 of each year.
30 Sec. 78. Section 36-3433, Arizona Revised Statutes, is amended to
31 read:
32 36-3433. Annual budget; request and allocation
33 A. The ~~department~~ ADMINISTRATION shall annually include in its budget
34 request a separate appropriations request for the comprehensive behavioral
35 health service system for children. The request shall be based on the annual
36 plan and assessment ~~studies from the division.~~ All behavioral health
37 services provided for children by the ~~division~~ ADMINISTRATION shall be
38 included in the request.
39 B. In preparing its budget request, the ~~division~~ ADMINISTRATION shall:
40 1. Identify that ~~no less than~~ AT LEAST twenty ~~per-cent~~ PERCENT of the
41 total amount of appropriations requested be set aside for prevention and
42 early identification programs.
43 2. Allocate up to five ~~per-cent~~ PERCENT of the total appropriations
44 requested for evaluation of the system.
45 3. Establish priorities for allocation of funding ~~which~~ THAT include:
46 (a) Outpatient services.
47 (b) Secure residential services for seriously emotionally disturbed
48 children.

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

2 (d) Partial care and day treatment services.

3 (e) Emergency services, including crisis shelter, crisis stabilization
4 and emergency inpatient hospitalization.

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

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

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

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

19 36-3434. Current service delivery system; continuation

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

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

27 36-3435. Intergovernmental agreement; needs and resources
28 assessment; funding and service delivery plan;
29 definition

30 A. Pursuant to section 11-952, the ~~department of health services~~
31 ADMINISTRATION, the department of child safety, the state department of
32 corrections, the department of education and the supreme court shall enter
33 into an intergovernmental agreement to develop a coordinated multiagency
34 assessment of needs and resources and to develop a plan for interagency
35 cooperation relating to funding and service delivery for children with
36 behavioral health problems. The plan shall designate agency areas of
37 responsibility for delivery of services. The needs and resources assessment
38 study shall be completed within one year after the intergovernmental
39 agreement is entered into. The funding and service delivery plan shall be
40 completed within two years after the agreement is entered into.

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

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

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

3 36-3501. Child fatality review team; membership; duties

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

- 8 1. Attorney general.
- 9 2. Office of women's and children's health in the department of health
10 services.
- 11 3. Office of planning and health status monitoring in the department
12 of health services.
- 13 ~~4. Division of behavioral health in the department of health services.~~
- 14 4. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.
- 15 5. Division of developmental disabilities in the department of
16 economic security.
- 17 6. Department of child safety.
- 18 7. Governor's office for children.
- 19 8. Administrative office of the courts.
- 20 9. Parent assistance office of the supreme court.
- 21 10. Department of juvenile corrections.
- 22 11. Arizona chapter of a national pediatric society.

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

- 25 1. A medical examiner who is a forensic pathologist.
- 26 2. A maternal and child health specialist involved with the treatment
27 of native Americans.
- 28 3. A representative of a private nonprofit organization of tribal
29 governments in this state.
- 30 4. A representative of the Navajo tribe.
- 31 5. A representative of the United States military family advocacy
32 program.
- 33 6. A representative of a statewide prosecuting attorneys advisory
34 council.
- 35 7. A representative of a statewide law enforcement officers advisory
36 council who is experienced in child homicide investigations.
- 37 8. A representative of an association of county health officers.
- 38 9. A child advocate who is not employed by or an officer of this state
39 or a political subdivision of this state.
- 40 10. A public member. If local teams are formed pursuant to this
41 article, the director of the department of health services shall select this
42 member from one of those local teams.

43 C. The team shall:

- 44 1. Develop a child fatalities data collection system.
- 45 2. Provide training to cooperating agencies, individuals and local
46 child fatality review teams on the use of the child fatalities data system.
- 47 3. Conduct an annual statistical report on the incidence and causes of
48 child fatalities in this state during the past fiscal year and submit a copy

1 of this report, including its recommendations for action, to the governor,
2 the president of the senate and the speaker of the house of representatives
3 on or before November 15 of each year.

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

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

8 6. Develop protocols for child fatality investigations, including
9 protocols for law enforcement agencies, prosecutors, medical examiners,
10 health care facilities and social service agencies.

11 7. Study the adequacy of statutes, ordinances, rules, training and
12 services to determine what changes are needed to decrease the incidence of
13 preventable child fatalities and, as appropriate, take steps to implement
14 these changes.

15 8. Provide case consultation on individual cases to local teams if
16 requested.

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

19 10. Designate a team chairperson.

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

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

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

29 14. Periodically review the infant death investigation checklist
30 developed by the department of health services pursuant to section 36-3506.
31 In reviewing the checklist, the review team shall consider guidelines
32 endorsed by national infant death organizations.

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

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

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

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

43 41-2501. Applicability

44 A. This chapter applies only to procurements initiated after
45 January 1, 1985 unless the parties agree to its application to procurements
46 initiated before that date.

47 B. This chapter applies to every expenditure of public monies,
48 including federal assistance monies except as otherwise specified in section

1 41-2637, by this state, acting through a state governmental unit as defined
2 in this chapter, under any contract, except that this chapter does not apply
3 to either grants as defined in this chapter, or contracts between this state
4 and its political subdivisions or other governments, except as provided in
5 chapter 24 of this title and in article 10 of this chapter. This chapter
6 also applies to the disposal of state materials. This chapter and rules
7 adopted under this chapter do not prevent any state governmental unit or
8 political subdivision from complying with the terms of any grant, gift,
9 bequest or cooperative agreement.

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

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

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

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

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

31 H. The Arizona health care cost containment system administration is
32 exempt from this chapter for provider contracts pursuant to section 36-2904,
33 subsection A and contracts for goods and services, including program
34 contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 **AND**
35 **CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36,**
36 **CHAPTER 34.** All other procurement, including contracts for the statewide
37 administrator of the program pursuant to section 36-2903, subsection B, shall
38 be as prescribed by this chapter.

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

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

1 K. The state transportation board and the director of the department
2 of transportation are exempt from this chapter other than section 41-2586 for
3 the procurement of construction or reconstruction, including engineering
4 services, of transportation facilities or highway facilities and any other
5 services that are directly related to land titles, appraisals, real property
6 acquisition, relocation, property management or building facility design and
7 construction for highway development and that are required pursuant to title
8 28, chapter 20.

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

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

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

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

27 P. Agreements negotiated by legal counsel representing this state in
28 settlement of litigation or threatened litigation are exempt from this
29 chapter.

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

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

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

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

38 4. With an eligible entity as defined by Public Law 105-285, section
39 ~~673(1)(a)(i)~~ 673(1)(A)(i), as amended, for designated community services
40 block grant program monies and any other monies given to the eligible entity
41 that accomplishes the purpose of Public Law 105-285, section 672.

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

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

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

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

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

6 ~~5.~~ **T.** The department of health services is exempt from this chapter
7 for contracts for services of physicians at the Arizona state hospital.

8 ~~6.~~ **U.** Contracts for goods and services approved by the board of
9 trustees of the public safety personnel retirement system are exempt from
10 this chapter.

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

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

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

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

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

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

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

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

40 ~~13.~~ **BB.** The department of environmental quality is exempt from this
41 chapter for contracting for procurements relating to the water quality
42 assurance revolving fund program established pursuant to title 49, chapter 2,
43 article 5. The department shall engage in a source selection process that is
44 similar to the procedures prescribed by this chapter. The department may
45 contract for remedial actions with a single selection process. The exclusive
46 remedy for disputes or claims relating to contracting pursuant to this
47 subsection is as prescribed by article 9 of this chapter and the rules

1 adopted pursuant to that article. All other procurement by the department
2 shall be as prescribed by this chapter.

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

7 1. The division does not pay any public monies to an authorized third
8 party.

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

10 3. The director has complied with the requirements prescribed in title
11 28, chapter 13 in selecting an authorized third party.

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

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

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

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

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

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

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

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

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

43 ~~LL.~~ MM. This chapter does not apply to contracts for credit reporting
44 services.

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

47 1. With a provider of family foster care pursuant to section 8-503 or
48 36-554.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 A. Subject to the approval of the appropriate department director,
44 each committee established pursuant to this article shall adopt guidelines
45 that govern its operation, including terms of members, quorum and attendance
46 requirements and removal of a committee member if necessary. Each committee
47 shall adopt these guidelines by majority vote within the first three months
48 of its formation. These guidelines shall not conflict with this article.

1 The director of the appropriate department shall approve the guidelines
2 unless they are inconsistent with the department's statutes, policies,
3 procedures or rules, or if the ~~guideline does~~ GUIDELINES DO not promote
4 participation by all interested members of the community that the committee
5 serves. In addition to the procedures in the guidelines, each human rights
6 committee must approve the removal of any committee member on majority vote
7 of the committee.

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

12 C. Advocacy groups, local advisory councils, committee members and the
13 director of the appropriate department may submit names of candidates to fill
14 committee vacancies. The appropriate director shall appoint a person to fill
15 a vacancy subject to the approval of the committee.

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

17 E. Each committee shall provide independent oversight to:

18 1. Ensure that the rights of clients are protected.

19 2. Provide research in that committee's field.

20 3. Review incidents of possible abuse, neglect or denial of a client's
21 rights.

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

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

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

33 I. Subject to federal law, committee members and consultants have
34 access to client information and records maintained by the appropriate
35 department, provider or regional behavioral health authorities to the extent
36 necessary to conduct committee duties. Each person who receives information
37 or records pursuant to this subsection shall maintain the information or
38 records as confidential and sign an agreement to comply with all
39 confidentiality requirements. Any client information or records shall be
40 released to the committee without the designation of personally identifiable
41 information unless the personally identifiable information is required for
42 the official purposes of the committee. A VIOLATION OF THIS SUBSECTION IS A
43 CLASS 2 MISDEMEANOR. FOR THE PURPOSES OF THIS SUBSECTION, "personally
44 identifiable information" includes A PERSON'S name, address, date of birth,
45 social security number, tribal enrollment number, telephone or telefacsimile
46 number, driver license number, places of employment or school identification
47 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.

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

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

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

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

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

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

18 Sec. 86. Report

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

25 Sec. 87. Effective date

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

27 Amend title to conform

and, as so amended, it do pass

JUSTIN OLSON
Chairman

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