

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

# HOUSE BILL 2735

## AN ACT

AMENDING SECTIONS 11-584, 12-253, 12-820.02, 13-502 AND 13-2503, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 13-3991 AND 13-3992; AMENDING SECTIONS 13-3993 AND 13-3994, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-3995, 13-3996, 13-3997, 13-3998, 13-3999 AND 13-4000; AMENDING SECTION 13-4416, ARIZONA REVISED STATUTES; REPEALING TITLE 31, CHAPTER 4, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-206, 36-209 AND 36-545.01, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3020.11, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3803, ARIZONA REVISED STATUTES; RELATING TO THE PSYCHIATRIC SECURITY REVIEW BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-584, Arizona Revised Statutes, is amended to  
3 read:

4 11-584. Public defender; duties; reimbursement

5 A. The public defender ~~shall~~, on order of the court, **SHALL** defend,  
6 advise and counsel any person who is entitled to counsel as a matter of  
7 law and who is not financially able to employ counsel in the following  
8 proceedings and circumstances:

9 1. Offenses triable in the superior court or justice courts at all  
10 stages of the proceedings, including the preliminary examination.

11 2. Extradition hearings.

12 3. Mental disorder hearings only if appointed by the court under  
13 title 36, chapter 5.

14 4. Involuntary commitment hearings held pursuant to title 36,  
15 chapter 18, only if appointed by the court.

16 5. Involuntary commitment hearings held pursuant to title 36,  
17 chapter 37, if appointed by the court as provided in section 36-3704,  
18 subsection C and the board of supervisors has advised the presiding judge  
19 of the county that the public defender is authorized to accept these  
20 appointments.

21 6. Juvenile delinquency and incorrigibility proceedings only if  
22 appointed by the court under section 8-221.

23 7. Appeals to a higher court or courts.

24 8. All juvenile proceedings other than delinquency and  
25 incorrigibility proceedings under paragraph 6 of this subsection,  
26 including serving as a guardian ad litem, if appointed by the court  
27 pursuant to section 8-221 and the board of supervisors has advised the  
28 presiding judge of the county that the public defender is authorized to  
29 accept these appointments.

30 9. All mental health hearings regarding release recommendations  
31 ~~THAT ARE held before IN the psychiatric security review board SUPERIOR~~  
32 ~~COURT pursuant to section 13-3994, if appointed by the court as provided~~  
33 ~~in section 31-502, subsection A, paragraph 8 TITLE 13, CHAPTER 38, ARTICLE~~  
34 ~~14~~ and the board of supervisors has advised the presiding judge of the  
35 superior court in the county that the public defender is authorized to  
36 accept these appointments.

37 10. As attorneys in any other proceeding or circumstance in which a  
38 party is entitled to counsel as a matter of law if the court appoints the  
39 public defender and the board of supervisors has advised the presiding  
40 judge of the county that the public defender is authorized to accept these  
41 appointments as specified.

42 B. The public defender shall perform the following duties:

43 1. Keep a record of all services rendered by the public defender in  
44 that capacity and file with the board of supervisors an annual report of  
45 those services.

1           2. By December 1 of each year, file with the presiding judge of the  
2 superior court, the chief probation officer and the board of supervisors  
3 an annual report on the average cost of defending a felony case.

4           C. Although the services of the public defender or court appointed  
5 counsel shall be without expense to the defendant, the juvenile, a parent  
6 or any other party, the court may make the following assessments:

7           1. Order an indigent administrative assessment of not more than  
8 twenty-five dollars.

9           2. Order an administrative assessment fee of not more than  
10 twenty-five dollars to be paid by the juvenile or the juvenile's parent or  
11 guardian.

12           3. Require that the defendant, including a defendant who is placed  
13 on probation, a juvenile, a parent or any other party who is appointed  
14 counsel under subsection A of this section repay to the county a  
15 reasonable amount to reimburse the county for the cost of the person's  
16 legal services. Reimbursement for legal services in a delinquency,  
17 dependency or termination proceeding shall be ordered pursuant to section  
18 8-221. Reimbursement for legal services in a guardianship or  
19 conservatorship proceeding shall be ordered pursuant to section 14-5414.

20           D. In determining the amount and method of payment the court shall  
21 take into account the financial resources of the defendant and the nature  
22 of the burden that the payment will impose.

23           E. Assessments collected pursuant to subsection C of this section  
24 shall be paid into the county general fund in the account designed for use  
25 solely by the public defender and court appointed counsel to defray the  
26 costs of public defenders and court appointed counsel. The assessments  
27 shall supplement, not supplant, funding provided by counties for public  
28 defense, legal defense and contract indigent defense counsel in each  
29 county.

30           Sec. 2. Section 12-253, Arizona Revised Statutes, is amended to  
31 read:

32           12-253. Powers and duties

33           The adult probation officer shall:

34           1. Make and file a complete record of persons placed under  
35 suspended sentence by the court, and of all reports made to the officer in  
36 writing or in person, in accordance with the conditions imposed by the  
37 court.

38           2. Exercise general supervision and observation over persons under  
39 suspended sentence **AND SUPERVISION PURSUANT TO SECTION 13-3994**, subject to  
40 control and direction by the court.

41           3. Serve warrants, make arrests and bring persons before the court  
42 who are under suspended sentences. The officer has the authority of a  
43 peace officer in the performance of the officer's duties.

44           4. Investigate cases referred to the officer for investigation by  
45 the court in which the officer is serving and report to the court. In an

1 investigation for a presentence report, the adult probation officer shall  
2 promptly inquire into the circumstances of the offense, the convicted  
3 person's history of delinquency or criminality, social history, employment  
4 history, family situation, economic status, including the ability to  
5 contribute to reimbursement for the costs of the person's legal defense  
6 pursuant to section 11-584, education and personal habits. The  
7 presentence report shall contain a recommendation by the officer regarding  
8 contribution by the convicted person toward the costs of legal defense  
9 pursuant to section 11-584. The officer shall also promptly inquire into  
10 the physical, emotional and financial impact of the offense on the victim  
11 and the emotional and financial impact of the offense on the immediate  
12 family of the victim and shall notify the victim or the immediate family  
13 of the victim of the right to appear personally or by counsel at any  
14 aggravation or mitigation proceeding.

15 5. Secure and keep a complete identification record of every person  
16 released under a suspended sentence and a written statement of the  
17 conditions of the suspension.

18 6. Obtain and assemble information concerning the conduct of  
19 persons placed under suspended sentence and report the information to the  
20 court.

21 7. Bring defaulting probationers into court when in the probation  
22 officer's judgment the conduct of the probationer justifies the court to  
23 revoke suspension of the sentence.

24 8. Monitor the payment of restitution.

25 Sec. 3. Section 12-820.02, Arizona Revised Statutes, is amended to  
26 read:

27 12-820.02. Qualified immunity

28 A. Unless a public employee acting within the scope of the public  
29 employee's employment intended to cause injury or was grossly negligent,  
30 neither a public entity nor a public employee is liable for:

31 1. The failure to make an arrest or the failure to retain an  
32 arrested person in custody.

33 2. An injury caused by an escaping or escaped prisoner or a youth  
34 committed to the department of juvenile corrections.

35 3. An injury resulting from the probation, community supervision or  
36 discharge of a prisoner or a youth committed to the department of juvenile  
37 corrections, from the terms and conditions of the prisoner's or youth's  
38 probation or community supervision or from the revocation of the  
39 prisoner's or youth's probation, community supervision or conditional  
40 release under the ~~psychiatric security review board~~ JURISDICTION OF THE  
41 SUPERIOR COURT.

42 4. An injury caused by a prisoner to any other prisoner or an  
43 injury caused by a youth committed to the department of juvenile  
44 corrections to any other committed youth.



1           B. In a case involving the death or serious physical injury of or  
2 the threat of death or serious physical injury to another person, if a  
3 plea of insanity is made and the court determines that a reasonable basis  
4 exists to support the plea, the court may commit the defendant to a secure  
5 state mental health facility under the department of health services, a  
6 secure county mental health evaluation and treatment facility or another  
7 secure licensed mental health facility for up to thirty days for mental  
8 health evaluation and treatment. Experts at the mental health facility  
9 who are licensed pursuant to title 32, who are familiar with this state's  
10 insanity statutes, who are specialists in mental diseases and defects and  
11 who are knowledgeable concerning insanity shall observe and evaluate the  
12 defendant. The expert or experts who examine the defendant shall submit a  
13 written report of the evaluation to the court, the defendant's attorney  
14 and the prosecutor. The court shall order the defendant to pay the costs  
15 of the mental health facility to the clerk of the court. The clerk of the  
16 court shall transmit the reimbursements to the mental health facility for  
17 all of its costs. If the court finds the defendant is indigent or  
18 otherwise is unable to pay all or any of the costs, the court shall order  
19 the county to reimburse the mental health facility for the remainder of  
20 the costs. Notwithstanding section 36-545.02, the mental health facility  
21 may maintain the reimbursements. If the court does not commit the  
22 defendant to a secure state mental health facility, a secure county mental  
23 health evaluation and treatment facility or another secure licensed mental  
24 health facility, the court shall appoint an independent expert who is  
25 licensed pursuant to title 32, who is familiar with this state's insanity  
26 statutes, who is a specialist in mental diseases and defects and who is  
27 knowledgeable concerning insanity to observe and evaluate the defendant.  
28 The expert who examines the defendant shall submit a written report of the  
29 evaluation to the court, the defendant's attorney and the prosecutor. The  
30 court shall order the defendant to pay the costs of the services of the  
31 independent expert to the clerk of the court. The clerk of the court  
32 shall transmit the reimbursements to the expert. If the court finds the  
33 defendant is indigent or otherwise unable to pay all or any of the costs,  
34 the court shall order the county to reimburse the expert for the remainder  
35 of the costs. This subsection does not prohibit the defendant or this  
36 state from obtaining additional psychiatric examinations by other mental  
37 health experts who are licensed pursuant to title 32, who are familiar  
38 with this state's insanity statutes, who are specialists in mental  
39 diseases and defects and who are knowledgeable concerning insanity.

40           C. The defendant shall prove the defendant's legal insanity by  
41 clear and convincing evidence.

42           D. If the finder of fact finds the defendant guilty except insane,  
43 the court shall determine the sentence the defendant could have received  
44 pursuant to section 13-707 or section 13-751, subsection A or the  
45 presumptive sentence the defendant could have received pursuant to section

1 13-702, section 13-703, section 13-704, section 13-705, section 13-706,  
2 subsection A, section 13-710 or section 13-1406 if the defendant had not  
3 been found insane, and the judge shall SUSPEND THE sentence ~~the defendant~~  
4 ~~to a term of incarceration in the state department of corrections~~ and  
5 shall order the defendant to be placed AND REMAIN under the jurisdiction  
6 of the ~~psychiatric security review board~~ SUPERIOR COURT and committed to a  
7 SECURE state mental health facility under the department of health  
8 services pursuant to section ~~13-3994~~ 13-3992 for that term. In making  
9 this determination the court shall not consider the sentence enhancements  
10 for prior convictions under section 13-703 or 13-704. The court shall  
11 expressly identify each act that the defendant committed and separately  
12 find whether each act involved the death or physical injury of or a  
13 substantial threat of death or physical injury to another person.

14 E. A guilty except insane verdict is not a criminal conviction ~~for~~  
15 ~~sentencing enhancement purposes under section 13-703 or 13-704.~~

16 Sec. 5. Section 13-2503, Arizona Revised Statutes, is amended to  
17 read:

18 13-2503. Escape in the second degree; classification

19 A. A person commits escape in the second degree by knowingly:

20 1. Escaping or attempting to escape from a juvenile secure care  
21 facility, a juvenile detention facility or an adult correctional facility;  
22 or

23 2. Escaping or attempting to escape from custody imposed as a  
24 result of having been arrested for, charged with or found guilty of a  
25 felony; or

26 3. Escaping or attempting to escape from the Arizona state hospital  
27 if the person was committed to the hospital for treatment pursuant to  
28 section 8-291.09, 13-502, ~~13-3994~~ 13-3992, 13-4507, 13-4512 or 31-226 or  
29 rule 11 of the Arizona rules of criminal procedure; or

30 4. Escaping or attempting to escape from the Arizona state hospital  
31 if the person was committed to the hospital for treatment pursuant to  
32 title 36, chapter 37.

33 B. Escape in the second degree pursuant to subsection A, paragraph  
34 1, 2 or 4 of this section is a class 5 felony, and the sentence imposed  
35 for a violation of this section shall run consecutively to any sentence of  
36 imprisonment for which the person was confined or to any term of community  
37 supervision for the sentence including probation, parole, work furlough or  
38 any other release. Escape in the second degree pursuant to subsection A,  
39 paragraph 3 of this section is a class 2 misdemeanor.

40 Sec. 6. Transfer and renumber

41 Sections 13-3991 and 13-3992, Arizona Revised Statutes, are  
42 transferred and renumbered for placement in title 13, chapter 41, Arizona  
43 Revised Statutes, as sections 13-4519 and 13-4520, respectively.

1           Sec. 7. Title 13, chapter 38, article 14, Arizona Revised Statutes,  
2 is amended by adding new sections 13-3991 and 13-3992, to read:

3           13-3991. Definitions

4           IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5           1. "CONDITIONAL RELEASE" MEANS RELEASE FROM THE SECURE MENTAL  
6 HEALTH FACILITY UNDER THE SPECIFIED WRITTEN CONDITIONS.

7           2. "DANGEROUS" MEANS A DANGER OF INFLICTING SERIOUS PHYSICAL HARM  
8 ON ONESELF OR OTHERS, INCLUDING ATTEMPTED SUICIDE OR THE SERIOUS THREAT OF  
9 SUICIDE, IF THE THREAT IS SUCH THAT, WHEN CONSIDERED IN THE LIGHT OF THE  
10 THREAT'S CONTEXT AND ANY PREVIOUS ACTS, THE THREAT IS SUBSTANTIALLY  
11 SUPPORTIVE OF AN EXPECTATION THAT IT WILL BE CARRIED OUT.

12           3. "INDEPENDENT PASS" MEANS A PASS THAT ALLOWS A PERSON TO SPEND  
13 INDEPENDENT TIME IN THE COMMUNITY WHILE REMAINING A RESIDENT OF A SECURE  
14 MENTAL HEALTH FACILITY.

15           4. "MENTAL DISORDER" MEANS A PSYCHIATRIC OR NEUROLOGICAL DISORDER  
16 THAT IS EVIDENCED BY BEHAVIOR OR EMOTIONAL SYMPTOMS, INCLUDING CONGENITAL  
17 MENTAL CONDITIONS, CONDITIONS RESULTING FROM INJURY OR DISEASE AND  
18 DEVELOPMENTAL DISABILITIES AS DEFINED IN SECTION 36-551.

19           5. "MENTAL HEALTH REPORT" MEANS A REPORT THAT IS WRITTEN BY A  
20 TREATMENT SUPERVISOR OR OTHER QUALIFIED EXPERT, THAT DOCUMENTS THE  
21 CONDITION OF A PERSON'S MENTAL HEALTH AND THAT INCLUDES AT LEAST ALL OF  
22 THE FOLLOWING:

23           (a) THE PERSON'S MENTAL CONDITION, SYMPTOMS AND DIAGNOSIS ON  
24 ADMISSION TO THE SECURE MENTAL HEALTH FACILITY.

25           (b) THE PERSON'S CURRENT MENTAL CONDITION, SYMPTOMS AND DIAGNOSIS.

26           (c) A DESCRIPTION OF THE PERSON'S TREATMENT REGIMEN, INCLUDING ANY  
27 PRESCRIBED MEDICATIONS AND THE PERSON'S COMPLIANCE WITH THE PRESCRIBED  
28 MEDICATIONS.

29           (d) A DESCRIPTION OF THE PERSON'S TYPICAL INTERACTIONS WITH STAFF  
30 AND PEERS AND ANY SIGNIFICANT VARIATION IN TYPICAL INTERACTIONS.

31           (e) IF SYMPTOMS OF MENTAL DISORDER ARE IN REMISSION, HOW LONG THEY  
32 HAVE BEEN IN REMISSION AND WHAT FACTORS HAVE CONTRIBUTED TO THE REMISSION.

33           (f) ANY RECOMMENDATION FOR CHANGES IN CONDITIONAL RELEASE STATUS  
34 AND THE CLINICAL REASONS FOR THE RECOMMENDATION.

35           6. "PARTIES" INCLUDES THE PERSON UNDER THE COURT'S JURISDICTION,  
36 THE SECURE MENTAL HEALTH FACILITY, THE OUTPATIENT TREATMENT SUPERVISOR AND  
37 THE COUNTY ATTORNEY OR ATTORNEY GENERAL WHO IS REPRESENTING THE STATE.

38           7. "PASS SUPERVISOR" MEANS A PERSON OR AGENCY REPRESENTATIVE WHO IS  
39 APPROVED BY THE COURT TO ACCOMPANY A PERSON ON APPROVED CONDITIONAL  
40 RELEASE FOR PASS PRIVILEGES.

41           8. "PROPENSITY TO REOFFEND" MEANS THE LIKELIHOOD THAT A PERSON WILL  
42 VIOLENTLY REOFFEND BASED ON THE PERSON'S HISTORY OF CRIMINAL BEHAVIOR OR  
43 INVOLVEMENT IN THE CRIMINAL JUSTICE SYSTEM.

1 9. "QUALIFIED EXPERT" MEANS A PSYCHOLOGIST, PSYCHIATRIST OR  
2 PSYCHIATRIC NURSE PRACTITIONER WHO:

3 (a) IS FAMILIAR WITH INPATIENT AND OUTPATIENT TREATMENT SERVICES IN  
4 THIS STATE.

5 (b) IS QUALIFIED BY EDUCATION AND EXPERIENCE TO DIAGNOSE, EVALUATE  
6 AND MAKE CLINICAL RECOMMENDATIONS FOR A PERSON WITH A MENTAL DISEASE,  
7 DEFECT OR DISORDER.

8 (c) IF RENDERING AN ASSESSMENT OF A PERSON'S SAFETY IN THE  
9 COMMUNITY, HAS EDUCATION AND TRAINING IN AND USES VALID AND RELIABLE RISK  
10 ASSESSMENT TOOLS.

11 10. "RISK ASSESSMENT" MEANS A COMPREHENSIVE ASSESSMENT OF A  
12 PERSON'S RISK FOR VIOLENT BEHAVIOR.

13 11. "SECURE MENTAL HEALTH FACILITY" MEANS A SECURE STATE MENTAL  
14 HEALTH FACILITY THAT IS UNDER THE DEPARTMENT OF HEALTH SERVICES.

15 12. "STABLE REMISSION" MEANS A CLINICAL STATE IN WHICH THERE IS AN  
16 ABSENCE OR MARKED ATTENUATION IN THE SIGNS AND SYMPTOMS OF MAJOR MENTAL  
17 ILLNESS.

18 13. "SUFFICIENT CAUSE" MEANS A REASONABLE BELIEF THAT THE  
19 CIRCUMSTANCE IS TRUE OR NECESSARY AND IS LESS THAN A PREPONDERANCE.

20 14. "TREATMENT SUPERVISOR" MEANS A QUALIFIED EXPERT WHO IS A  
21 PERSON'S INPATIENT OR OUTPATIENT SUPERVISING AND TREATING CLINICIAN.

22 13-3992. Commitment hearing in superior court; jurisdiction;  
23 census data collection

24 A. A PERSON WHO IS FOUND GUILTY EXCEPT INSANE PURSUANT TO SECTION  
25 13-502 SHALL BE COMMITTED TO A SECURE MENTAL HEALTH FACILITY FOR A PERIOD  
26 OF TREATMENT.

27 B. IF THE PERSON'S ACT DID NOT CAUSE THE DEATH OR SERIOUS PHYSICAL  
28 INJURY OF OR THE THREAT OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER  
29 PERSON, THE COURT SHALL SET A HEARING WITHIN SEVENTY-FIVE DAYS AFTER THE  
30 PERSON'S COMMITMENT TO DETERMINE IF THE PERSON IS ENTITLED TO RELEASE FROM  
31 CONFINEMENT OR IF THE PERSON MEETS THE STANDARDS FOR CIVIL COMMITMENT  
32 PURSUANT TO TITLE 36, CHAPTER 5. FOURTEEN DAYS BEFORE THE HEARING, THE  
33 MEDICAL DIRECTOR OF THE SECURE MENTAL HEALTH FACILITY SHALL SUBMIT A  
34 MENTAL HEALTH REPORT TO THE COURT AND THE REMAINING PARTIES ADDRESSING  
35 WHETHER THE PERSON MEETS THE STANDARD FOR AND SHOULD BE SUBJECT TO  
36 INVOLUNTARY HOSPITALIZATION PURSUANT TO TITLE 36, CHAPTER 5.

37 C. AT A HEARING HELD PURSUANT TO SUBSECTION B OF THIS SECTION:

38 1. IF THE PERSON PROVES BY CLEAR AND CONVINCING EVIDENCE THAT THE  
39 PERSON NO LONGER HAS A MENTAL DISORDER OR THAT THE PERSON STILL HAS A  
40 MENTAL DISORDER AND IS NOT DANGEROUS, THE COURT SHALL ORDER THE PERSON'S  
41 RELEASE AND THE PERSON'S COMMITMENT ORDERED PURSUANT TO SECTION 13-502,  
42 SUBSECTION D SHALL TERMINATE.

43 2. IF THE COURT FINDS THAT THE PERSON STILL HAS A MENTAL DISORDER  
44 AND MAY PRESENT A THREAT OF DANGER TO SELF OR OTHERS, HAS A GRAVE,  
45 PERSISTENT OR ACUTE DISABILITY OR HAS A PROPENSITY TO REOFFEND, THE COURT

1 SHALL ORDER THE COUNTY ATTORNEY TO INSTITUTE CIVIL COMMITMENT PROCEEDINGS  
2 PURSUANT TO TITLE 36, CHAPTER 5 AND THE PERSON'S COMMITMENT ORDERED  
3 PURSUANT TO SECTION 13-502, SUBSECTION D SHALL TERMINATE.

4 D. IF THE COURT FINDS THAT THE PERSON'S ACT CAUSED THE DEATH OF OR  
5 SERIOUS PHYSICAL INJURY TO OR THE THREAT OF DEATH OR SERIOUS PHYSICAL  
6 INJURY TO ANOTHER PERSON, THE COURT SHALL RETAIN JURISDICTION OVER THE  
7 PERSON FOR THE ENTIRETY OF THE COMMITMENT TERM. THE COURT SHALL STATE THE  
8 BEGINNING DATE, LENGTH AND ENDING DATE OF THE COMMITMENT TERM AND THE  
9 COURT'S JURISDICTION OVER THE PERSON. THE LENGTH OF JURISDICTION OVER THE  
10 PERSON IS EQUAL TO THE SENTENCE THE PERSON COULD HAVE RECEIVED PURSUANT TO  
11 SECTION 13-707 OR SECTION 13-751, SUBSECTION A OR THE PRESUMPTIVE SENTENCE  
12 THE PERSON COULD HAVE RECEIVED PURSUANT TO SECTION 13-702, 13-703, 13-704  
13 OR 13-705, SECTION 13-706, SUBSECTION A, OR SECTION 13-710 OR 13-1406. IN  
14 MAKING THIS DETERMINATION, THE COURT MAY NOT CONSIDER THE SENTENCE  
15 ENHANCEMENTS FOR PRIOR CONVICTIONS UNDER SECTION 13-703 OR 13-704.

16 E. IF A PERSON IS FOUND GUILTY EXCEPT INSANE PURSUANT TO SECTION  
17 13-502, THE DEPARTMENT OF HEALTH SERVICES SHALL ASSUME CUSTODY OF THE  
18 PERSON WITHIN TEN DAYS AFTER RECEIVING THE ORDER COMMITTING THE PERSON  
19 PURSUANT TO SUBSECTION A OF THIS SECTION. THE ARIZONA STATE HOSPITAL  
20 SHALL COLLECT CENSUS DATA FOR GUILTY EXCEPT INSANE TREATMENT PROGRAMS TO  
21 ESTABLISH MAXIMUM CAPACITY AND THE ALLOCATION FORMULA REQUIRED PURSUANT TO  
22 SECTION 36-206, SUBSECTION D. IF THE ARIZONA STATE HOSPITAL REACHES ITS  
23 MAXIMUM FUNDED CAPACITY FOR FORENSIC PROGRAMS, THE DEPARTMENT OF HEALTH  
24 SERVICES MAY DEFER THE ADMISSION OF THE PERSON FOUND GUILTY EXCEPT INSANE  
25 FOR UP TO AN ADDITIONAL TWENTY DAYS. THE DEPARTMENT OF HEALTH SERVICES  
26 SHALL REIMBURSE THE COUNTY FOR THE ACTUAL COSTS OF EACH DAY THE ADMISSION  
27 IS DEFERRED. IF THE DEPARTMENT OF HEALTH SERVICES IS NOT ABLE TO ADMIT  
28 THE PERSON FOUND GUILTY EXCEPT INSANE AT THE CONCLUSION OF THE TWENTY-DAY  
29 DEFERRAL PERIOD, THE DEPARTMENT OF HEALTH SERVICES SHALL NOTIFY THE  
30 SENTENCING COURT, THE PROSECUTOR AND THE DEFENSE COUNSEL OF THIS FACT. ON  
31 RECEIPT OF THIS NOTIFICATION, THE PROSECUTOR OR THE PERSON'S DEFENSE  
32 COUNSEL MAY REQUEST A HEARING TO DETERMINE THE LIKELY LENGTH OF TIME  
33 ADMISSION WILL CONTINUE TO BE DEFERRED AND WHETHER ANY OTHER ACTION SHOULD  
34 BE TAKEN. ON RECEIPT OF THE REQUEST FOR HEARING, THE COURT SHALL SET A  
35 HEARING WITHIN TEN DAYS.

36 F. THE STATE AND THE DEFENDANT SHALL PROVIDE THE SECURE MENTAL  
37 HEALTH FACILITY WITH A COPY OF THE COURT'S COMMITMENT ORDER AND ALL  
38 DOCUMENTS CONSIDERED BY THE COURT OR ADMITTED INTO EVIDENCE, INCLUDING ALL  
39 MEDICAL AND MENTAL HEALTH REPORTS.

40 Sec. 8. Section 13-3993, Arizona Revised Statutes, is amended to  
41 read:

42 13-3993. Examination of defendant pleading guilty except  
43 insane; privilege inapplicability; sealed reports

44 ~~A. In any criminal prosecution in which the defendant has declared~~  
45 ~~the defendant's intent to invoke an insanity defense, on a showing of~~

~~1 unequal resources the state shall have the right to nominate and have  
2 appointed for examination of the defendant to determine the defendant's  
3 mental state the same number of medical doctors and licensed psychologists  
4 that will testify on behalf of the defense.~~

5 A. ON REQUEST OF THE COURT OR ANY PARTY, WITH THE CONSENT OF THE  
6 DEFENDANT AND AFTER A DETERMINATION THAT A REASONABLE BASIS EXISTS TO  
7 SUPPORT THE GUILTY EXCEPT INSANE DEFENSE, THE COURT SHALL APPOINT A  
8 QUALIFIED EXPERT TO EVALUATE THE DEFENDANT AND PROVIDE A WRITTEN REPORT  
9 THAT INCLUDES:

10 1. THE MENTAL STATUS OF THE DEFENDANT AT THE TIME OF THE ALLEGED  
11 OFFENSE.

12 2. IF THE QUALIFIED EXPERT DETERMINES THAT THE DEFENDANT SUFFERED  
13 FROM A MENTAL DISORDER AT THE TIME OF THE ALLEGED OFFENSE, THE  
14 RELATIONSHIP OF THE MENTAL DISORDER TO THE ALLEGED OFFENSE.

15 B. WITHIN TEN DAYS AFTER APPOINTMENT OF THE QUALIFIED EXPERT, THE  
16 PARTIES SHALL PROVIDE ALL AVAILABLE MEDICAL, MENTAL HEALTH AND CRIMINAL  
17 HISTORY RECORDS TO THE QUALIFIED EXPERT. ON NOTICE TO THE COURT, THE  
18 QUALIFIED EXPERT MAY REQUEST ADDITIONAL RECORDS FROM THE PARTIES.

19 C. IF THE DEFENDANT PROVIDES A NOTICE OF A GUILTY EXCEPT INSANE  
20 DEFENSE, THE DEFENSE ATTORNEY SHALL NOMINATE ITS OWN QUALIFIED EXPERT TO  
21 EXAMINE THE DEFENDANT TO DETERMINE THE DEFENDANT'S MENTAL STATUS AT THE  
22 TIME OF THE ALLEGED OFFENSE. THE STATE MAY CALL THE SAME NUMBER OF  
23 MEDICAL DOCTORS AND LICENSED PSYCHOLOGISTS WHO WILL TESTIFY ON BEHALF OF  
24 THE DEFENSE.

25 ~~B.~~ D. If a defendant ~~in a criminal prosecution~~ refuses to be  
26 examined by the state's ~~mental health~~ QUALIFIED experts, the court shall  
27 preclude the defendant from offering expert evidence of the defendant's  
28 mental ~~state~~ STATUS at the time of the alleged ~~crime~~ OFFENSE.

29 ~~C.~~ E. The privilege of confidential communications between a  
30 ~~medical doctor or licensed psychologist~~ QUALIFIED EXPERT and the defendant  
31 as it relates to the defendant's mental ~~state~~ STATUS at the time of the  
32 alleged crime does not apply if any mental disability defense is raised.

33 ~~D.~~ F. If any mental disability defense is raised, both the state  
34 and the defendant shall receive ~~prior to~~ BEFORE the trial complete copies  
35 of any report by a ~~medical doctor or licensed psychologist~~ QUALIFIED  
36 EXPERT who examines the defendant ~~to determine the defendant's mental~~  
37 ~~state at the time of the alleged crime or the defendant's competency.~~

38 G. AFTER A PLEA OF GUILTY OR AFTER DISPOSITION OF A MATTER WHERE  
39 THE DEFENDANT HAS PLEADED GUILTY EXCEPT INSANE, THE COURT SHALL ORDER ALL  
40 OF THE REPORTS SUBMITTED PURSUANT TO SECTION 13-502 AND THIS ARTICLE  
41 SEALED. THE COURT MAY ORDER THAT THE REPORTS BE OPENED ONLY AS FOLLOWS:

42 1. FOR USE BY THE COURT OR DEFENDANT, OR BY THE PROSECUTOR IF  
43 OTHERWISE ALLOWED BY LAW, FOR FURTHER COMPETENCY OR SANITY EVALUATIONS OR  
44 IN A HEARING TO DETERMINE WHETHER THE DEFENDANT IS ELIGIBLE FOR

1 COURT-ORDERED TREATMENT PURSUANT TO TITLE 36, CHAPTER 5 OR IS A SEXUALLY  
2 VIOLENT PERSON.

3 2. FOR STATISTICAL ANALYSIS.

4 3. WHEN THE RECORDS ARE DEEMED NECESSARY TO ASSIST IN MENTAL HEALTH  
5 TREATMENT PURSUANT TO SECTION 13-502 OR 13-4517.

6 4. FOR USE BY THE PROBATION DEPARTMENT OR THE STATE DEPARTMENT OF  
7 CORRECTIONS IF THE DEFENDANT IS IN THE CUSTODY OF OR IS SCHEDULED TO BE  
8 TRANSFERRED INTO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS TO  
9 ASSESS AND SUPERVISE OR MONITOR THE DEFENDANT BY THE STATE DEPARTMENT OF  
10 CORRECTIONS.

11 5. FOR USE BY A MENTAL HEALTH TREATMENT PROVIDER THAT PROVIDES  
12 TREATMENT TO THE DEFENDANT OR THAT ASSESSES THE DEFENDANT FOR TREATMENT.

13 6. FOR DATA GATHERING.

14 7. FOR SCIENTIFIC STUDY.

15 H. ANY STATEMENT THAT IS MADE BY THE DEFENDANT DURING AN  
16 EXAMINATION THAT IS CONDUCTED PURSUANT TO THIS ARTICLE OR ANY EVIDENCE  
17 RESULTING FROM THAT STATEMENT IS NOT SUBJECT TO DISCLOSURE PURSUANT TO  
18 SECTION 36-509.

19 Sec. 9. Section 13-3994, Arizona Revised Statutes, is amended to  
20 read:

21 13-3994. Persons under jurisdiction of the superior court;  
22 hearing; mental health report; risk assessment;  
23 conditional release; hearings and decisions

24 ~~A. A person who is found guilty except insane pursuant to section~~  
25 ~~13-502 shall be committed to a secure state mental health facility under~~  
26 ~~the department of health services for a period of treatment.~~

27 ~~B. If the criminal act of the person committed pursuant to~~  
28 ~~subsection A of this section did not cause the death or serious physical~~  
29 ~~injury of or the threat of death or serious physical injury to another~~  
30 ~~person, the court shall set a hearing date within seventy-five days after~~  
31 ~~the person's commitment to determine if the person is entitled to release~~  
32 ~~from confinement or if the person meets the standards for civil commitment~~  
33 ~~pursuant to title 36, chapter 5. The court shall notify the medical~~  
34 ~~director of the mental health facility, the attorney general, the county~~  
35 ~~attorney, the victim and the attorney representing the person, if any, of~~  
36 ~~the date of the hearing. Fourteen days before the hearing the director of~~  
37 ~~the mental health facility shall submit to the court a report addressing~~  
38 ~~the person's mental health and dangerousness.~~

39 ~~C. At a hearing held pursuant to subsection B of this section:~~

40 ~~1. If the person proves by clear and convincing evidence that the~~  
41 ~~person no longer suffers from a mental disease or defect and is not~~  
42 ~~dangerous, the court shall order the person's release and the person's~~  
43 ~~commitment ordered pursuant to section 13-502, subsection D shall~~  
44 ~~terminate. Before determining to release a person pursuant to this~~  
45 ~~paragraph, the court shall consider the entire criminal history of the~~

1 ~~person and shall not order the person's release if the court determines~~  
2 ~~that the person has a propensity to reoffend.~~

3 ~~2. If the court finds that the person still suffers from a mental~~  
4 ~~disease or defect, may present a threat of danger to self or others, has a~~  
5 ~~grave, persistent or acute disability or has a propensity to reoffend, it~~  
6 ~~shall order the county attorney to institute civil commitment proceedings~~  
7 ~~pursuant to title 36 and the person's commitment ordered pursuant to~~  
8 ~~section 13-502, subsection D shall terminate.~~

9 ~~D. If the court finds that the criminal act of the person committed~~  
10 ~~pursuant to subsection A of this section caused the death or serious~~  
11 ~~physical injury of or the threat of death or serious physical injury to~~  
12 ~~another person, the court shall place the person under the jurisdiction of~~  
13 ~~the psychiatric security review board. The court shall state the~~  
14 ~~beginning date, length and ending date of the board's jurisdiction over~~  
15 ~~the person. The length of the board's jurisdiction over the person is~~  
16 ~~equal to the sentence the person could have received pursuant to section~~  
17 ~~13-707 or section 13-751, subsection A or the presumptive sentence the~~  
18 ~~defendant could have received pursuant to section 13-702, subsection D,~~  
19 ~~section 13-703, section 13-704, section 13-705, section 13-706, subsection~~  
20 ~~A, section 13-710 or section 13-1406. In making this determination the~~  
21 ~~court shall not consider the sentence enhancements for prior convictions~~  
22 ~~under section 13-703 or 13-704. The court shall retain jurisdiction of all~~  
23 ~~matters that are not specifically delegated to the psychiatric security~~  
24 ~~review board for the duration of the presumptive sentence.~~

25 ~~E. A. A person who is placed under the jurisdiction of the~~  
26 ~~psychiatric security review board SUPERIOR COURT pursuant to subsection D~~  
27 ~~of this section is not eligible for discharge from the board's~~  
28 ~~jurisdiction until the board's jurisdiction over the person expires DATE~~  
29 ~~SET BY THE COURT.~~

30 ~~F. B. THE SECURE MENTAL HEALTH FACILITY MAY REQUEST A HEARING~~  
31 ~~PURSUANT TO SECTION 13-3995. AN OUTPATIENT TREATMENT SUPERVISOR MAY~~  
32 ~~REQUEST A HEARING PURSUANT TO SECTION 13-3996. A person who is placed~~  
33 ~~under the jurisdiction of the psychiatric security review board pursuant~~  
34 ~~to subsection D of this section is not entitled to a hearing before the~~  
35 ~~board earlier than one hundred twenty days after the person's initial~~  
36 ~~commitment. A request for a subsequent release hearing may be made~~  
37 ~~pursuant to subsection H of this section SUPERIOR COURT MAY REQUEST A~~  
38 ~~HEARING PURSUANT TO SECTION 13-3997. THE PERSON MAY ATTEND ANY HEARING BY~~  
39 ~~VIDEO TELECONFERENCE FROM THE SECURE MENTAL HEALTH FACILITY. After the~~  
40 ~~hearing, the board COURT may take one of the following actions:~~

41 ~~1. If the psychiatric security review board COURT finds that the~~  
42 ~~person still suffers from HAS a mental disease or defect DISORDER and is~~  
43 ~~dangerous, the board COURT shall order that the person remain committed at~~  
44 ~~the secure state mental health facility.~~

1           2. If the ~~person proves by clear and convincing evidence~~ COURT  
2 FINDS that the person no longer ~~suffers from~~ NEEDS ONGOING TREATMENT FOR a  
3 mental ~~disease or defect~~ DISORDER, and is not dangerous AND DOES NOT HAVE  
4 A PROPENSITY TO REOFFEND, the ~~psychiatric security review board~~ COURT  
5 shall ~~order~~ PLACE the ~~person's release~~. The person shall remain under the  
6 ~~jurisdiction of the board~~. Before determining to release a person  
7 pursuant to this paragraph, the board shall consider the entire criminal  
8 ~~history of the person and shall not order the person's release if the~~  
9 ~~board determines that the person has a propensity to reoffend~~ PERSON ON  
10 PROBATION FOR THE REMAINDER OF THE COMMITMENT TERM IMPOSED PURSUANT TO  
11 SECTION 13-502, SUBSECTION D.

12           3. If the ~~psychiatric security review board~~ COURT finds that the  
13 person still ~~suffers from~~ HAS a mental ~~disease or defect~~ DISORDER or that  
14 the mental ~~disease or defect~~ DISORDER is in stable remission but the  
15 person is no longer dangerous, the ~~board~~ COURT shall order the person's  
16 conditional release. The person shall remain under the ~~board's~~ COURT'S  
17 jurisdiction. ~~The board in conjunction with the state mental health~~  
18 ~~facility and behavioral health community providers shall specify the~~  
19 ~~conditions of the person's release~~. The board shall continue to monitor  
20 ~~and supervise a person who is released conditionally~~. Before the  
21 conditional release of a person, a supervised treatment plan shall be in  
22 place, including the necessary funding to implement the plan.

23           4. If the person ~~is~~ COULD HAVE BEEN sentenced pursuant to section  
24 13-704, section 13-710 or section 13-751, subsection A and the ~~psychiatric~~  
25 ~~security review board~~ COURT finds that the person no longer ~~needs ongoing~~  
26 ~~treatment for~~ HAS a mental ~~disease~~ DISORDER and the person is dangerous ~~or~~  
27 ~~has a propensity to reoffend~~, the ~~board~~ COURT shall IMPOSE THE SENTENCE  
28 AND order the person to be transferred to the state department of  
29 corrections for the remainder of the ~~sentence imposed pursuant to section~~  
30 ~~13-502, subsection D~~. The board shall consider the safety and protection  
31 of the public COMMITMENT TERM. ALL TIME SPENT UNDER THE COURT'S  
32 JURISDICTION AND ANY TIME SPENT COMMITTED PURSUANT TO THIS SECTION SHALL  
33 BE CREDITED AGAINST ANY SENTENCE IMPOSED.

34           C. AT THE TIME OF SENTENCING OR PLACEMENT ON PROBATION, THE COURT  
35 SHALL NOTIFY THE PERSON IN WRITING OF THE PERSON'S APPEAL RIGHTS UNDER  
36 RULE 31, ARIZONA RULES OF CRIMINAL PROCEDURE.

37           D. A PERSON WHO IS CONDITIONALLY RELEASED IS SUBJECT TO ALL OF THE  
38 FOLLOWING:

39           1. THE COURT IN CONJUNCTION WITH THE SECURE MENTAL HEALTH FACILITY  
40 AND SUPERVISORS FROM BEHAVIORAL HEALTH COMMUNITY PROVIDERS SHALL AGREE ON  
41 AND SPECIFY THE CONDITIONS OF THE PERSON'S RELEASE. THE SECURE MENTAL  
42 HEALTH FACILITY SHALL MONITOR THE PERSON ON CONDITIONAL RELEASE.

43           2. BEFORE THE PERSON IS CONDITIONALLY RELEASED, A SUPERVISED  
44 TREATMENT PLAN MUST BE IN PLACE.

1           3. THE COURT MAY IMPLEMENT THE PERSON'S CONDITIONAL RELEASE IN  
2 INCREMENTAL STEPS BEGINNING WITH SUPERVISED PASSES INTO THE COMMUNITY FOR  
3 INCREASING LENGTHS OF TIME, CONTINUING THROUGH INDEPENDENT PASSES AND  
4 ENDING WITH RELEASE TO LIVE IN THE COMMUNITY. BEFORE IMPLEMENTING EACH  
5 STAGE OF CONDITIONAL RELEASE, THE COURT MUST FIND BY CLEAR AND CONVINCING  
6 EVIDENCE THAT THE SAFETY OF THE COMMUNITY WILL BE PROTECTED AND THE PERSON  
7 WILL BE SAFE UNDER THE PROPOSED SUPERVISED TREATMENT PLAN.

8           4. IF APPROVED BY THE COURT, PASS SUPERVISORS MAY INCLUDE MEMBERS  
9 OF THE INPATIENT OR OUTPATIENT TREATMENT TEAM, OTHER MENTAL HEALTH  
10 TREATMENT PROVIDERS OR OTHER RESPONSIBLE PERSONS WHO ARE WILLING TO ENSURE  
11 THAT THE PERSON ABIDES BY THE CONDITIONAL RELEASE TERMS.

12           5. THE SECURE MENTAL HEALTH FACILITY SHALL IMPLEMENT THE COURT'S  
13 CONDITIONAL RELEASE ORDER OR PROVIDE THE COURT AND THE PARTIES WITH THE  
14 REASONS WHY THE SECURE MENTAL HEALTH FACILITY DID NOT IMPLEMENT THE ORDER.

15           ~~6. Within twenty days after the psychiatric security review board  
16 orders a person to be transferred to the state department of corrections,  
17 the person may file a petition for a judicial determination. The person  
18 shall serve a copy of the request on the attorney general. If the person  
19 files a petition for a judicial determination, the person shall remain in  
20 a state mental health facility pending the result of the judicial  
21 determination. The person requesting the judicial determination has the  
22 burden of proving the issues by clear and convincing evidence. The  
23 judicial determination is limited to the following issues:~~

24           ~~1. Whether the person no longer needs ongoing treatment for a  
25 mental disease.~~

26           ~~2. Whether the person is dangerous or has a propensity to reoffend.~~

27           ~~H. A person who is placed under the jurisdiction of the psychiatric  
28 security review board pursuant to subsection D of this section may not  
29 seek a new release hearing earlier than twenty months after a prior  
30 release hearing, except that the medical director of the state mental  
31 health facility may request a new release hearing for a person under the  
32 jurisdiction of the psychiatric security review board at any time. The  
33 person shall not be held in confinement for more than two years without a  
34 hearing before the board to determine if the person should be released or  
35 conditionally released.~~

36           ~~i. E. At any hearing for release or conditional release pursuant  
37 to this section:~~

38           ~~1. Public safety and protection are primary.~~

39           2. The ~~applicant~~ PARTY OR TREATMENT SUPERVISOR WHO IS SEEKING A  
40 CHANGE IN PRIVILEGES OR A CHANGE IN HOSPITALIZATION has the burden of  
41 proof by clear and convincing evidence.

42           ~~j. At least fifteen days before a hearing is scheduled to consider  
43 a person's release, or before the expiration of the board's jurisdiction  
44 over the person, the state mental health facility or supervising agency  
45 shall submit to the psychiatric security review board a report on the~~

1 ~~person's mental health. The psychiatric security review board shall~~  
2 ~~determine whether to release the person or to order the county attorney to~~  
3 ~~institute civil commitment proceedings pursuant to title 36.~~

4 ~~K. The procedures for civil commitment govern the continued~~  
5 ~~commitment of the person after the expiration of the jurisdiction of the~~  
6 ~~psychiatric security review board.~~

7 ~~L. Before a person is released or conditionally released, at least~~  
8 ~~three of the five psychiatric security review board members shall vote for~~  
9 ~~the release or conditional release.~~

10 ~~M. If at any time while the person remains under the jurisdiction~~  
11 ~~of the psychiatric security review board it appears to the board, the~~  
12 ~~chairman or vice-chairman of the board or the medical director of the~~  
13 ~~state mental health facility that the person has failed to comply with the~~  
14 ~~terms of the person's conditional release or that the mental health of the~~  
15 ~~person has deteriorated, the board or the chairman or vice-chairman of the~~  
16 ~~board for good cause or the medical director of the state mental health~~  
17 ~~facility may order that the person be returned to a secure state mental~~  
18 ~~health facility for evaluation or treatment. A written order of the~~  
19 ~~board, the chairman or vice-chairman of the board or the medical director~~  
20 ~~is sufficient warrant for any law enforcement officer to take the person~~  
21 ~~into custody and to transport the person accordingly. Any sheriff or~~  
22 ~~other peace officer shall execute the order and shall immediately notify~~  
23 ~~the board of the person's return to the facility. Within twenty days~~  
24 ~~after the person's return to a secure state mental health facility the~~  
25 ~~board shall conduct a hearing and shall give notice within five days~~  
26 ~~before the hearing of the time and place of the hearing to the person, the~~  
27 ~~victim, the attorney representing the person, the county attorney and the~~  
28 ~~attorney general.~~

29 ~~N. The director of a facility that is providing treatment to a~~  
30 ~~person on conditional release or any other person who is responsible for~~  
31 ~~the supervision of the person may take the person or request that the~~  
32 ~~person be taken into custody if there is reasonable cause to believe that~~  
33 ~~the person's mental health has deteriorated to the point that the person's~~  
34 ~~conditional release should be revoked and that the person is in need of~~  
35 ~~immediate care, custody or treatment or that deterioration is likely~~  
36 ~~because of noncompliance with a treatment program. A person who is taken~~  
37 ~~into custody pursuant to this subsection shall be transported immediately~~  
38 ~~to a secure state mental health facility and shall have the same rights as~~  
39 ~~any person appearing before the psychiatric security review board.~~

40 ~~O. Before the initial hearing or any other hearing before the~~  
41 ~~psychiatric security review board on the release or conditional release of~~  
42 ~~the person, the person, the attorney who is representing the person and~~  
43 ~~the attorney general or county attorney who is representing the state may~~  
44 ~~choose a psychiatrist licensed pursuant to title 32, chapter 13 or 17 or a~~  
45 ~~psychologist licensed pursuant to title 32, chapter 19.1 to examine the~~

1 ~~person. All costs in connection with the examination shall be approved~~  
2 ~~and paid by the county of the sentencing court. The written examination~~  
3 ~~results shall be filed with the board and shall include an opinion as to:~~

- 4 ~~1. The mental condition of the person.~~  
5 ~~2. Whether the person is dangerous.~~

6 ~~P. Notwithstanding subsection O of this section, the board or the~~  
7 ~~chairman of the board for good cause may order an independent mental~~  
8 ~~health evaluation by a psychiatrist licensed pursuant to title 32, chapter~~  
9 ~~13 or 17 or a psychologist licensed pursuant to title 32, chapter 19.1.~~  
10 ~~The written examination results shall be filed with the board pursuant to~~  
11 ~~subsection O of this section.~~

12 ~~Q. If a person is found guilty except insane pursuant to section~~  
13 ~~13-502, the department of health services shall assume custody of the~~  
14 ~~person within ten days after receiving the order committing the person~~  
15 ~~pursuant to subsection A of this section. The Arizona state hospital~~  
16 ~~shall collect census data for guilty except insane treatment programs to~~  
17 ~~establish maximum capacity and the allocation formula required pursuant to~~  
18 ~~section 36-206, subsection D. If the Arizona state hospital reaches its~~  
19 ~~funded capacity for forensic programs, the department of health services~~  
20 ~~may defer the admission of the person found guilty except insane for up to~~  
21 ~~an additional twenty days. The department of health services shall~~  
22 ~~reimburse the county for the actual costs of each day the admission is~~  
23 ~~deferred. If the department of health services is not able to admit the~~  
24 ~~person found guilty except insane at the conclusion of the twenty day~~  
25 ~~deferral period, the department of health services shall notify the~~  
26 ~~sentencing court, the prosecutor and the defense counsel of this fact. On~~  
27 ~~receipt of this notification, the prosecutor or the person's defense~~  
28 ~~counsel may request a hearing to determine the likely length of time~~  
29 ~~admission will continue to be deferred and whether any other action should~~  
30 ~~be taken. On receipt of the request for hearing, the court shall set a~~  
31 ~~hearing within ten days.~~

32 ~~R. For the purposes of this section, "state mental health facility"~~  
33 ~~means a secure state mental health facility under the department of health~~  
34 ~~services.~~

35 ~~F. UNLESS OTHERWISE PROVIDED IN THIS SECTION OR ON A SHOWING OF~~  
36 ~~SUFFICIENT CAUSE, A PARTY SHALL SUBMIT A REQUEST FOR A HEARING PURSUANT TO~~  
37 ~~SECTION 13-3995, 13-3996 OR 13-3997 AND INCLUDE THE REASONS FOR THE~~  
38 ~~REQUEST. WHEN A HEARING IS SET, THE COURT SHALL ORDER THE TREATMENT~~  
39 ~~PROVIDER TO SUBMIT A MENTAL HEALTH REPORT.~~

40 ~~G. THE COURT'S DECISION IS EFFECTIVE ON ORAL PRONOUNCEMENT. ANY~~  
41 ~~PORTION OF THE ORDER THAT CONTAINS PERSONAL IDENTIFYING INFORMATION ABOUT~~  
42 ~~THE PATIENT, TREATMENT SUPERVISOR OR PASS SUPERVISOR SHALL BE SEALED BY~~  
43 ~~THE COURT AND MAY NOT BE DISCLOSED TO THE PUBLIC OR TO A VICTIM. FOR THE~~  
44 ~~PURPOSES OF THIS SUBSECTION, "PERSONAL IDENTIFYING INFORMATION" INCLUDES A~~

1 PERSON'S DATE OF BIRTH, SOCIAL SECURITY NUMBER, TELEPHONE NUMBER AND  
2 ADDRESS AND EMPLOYER INFORMATION.

3 Sec. 10. Title 13, chapter 38, article 14, Arizona Revised  
4 Statutes, is amended by adding sections 13-3995, 13-3996, 13-3997,  
5 13-3998, 13-3999 and 13-4000, to read:

6 13-3995. Hearing on motion of the secure mental health  
7 facility; expedited hearing; return to  
8 hospitalization

9 A. ON THE REQUEST OF THE SECURE MENTAL HEALTH FACILITY, THE COURT  
10 SHALL GRANT A HEARING TO MONITOR A PERSON'S PROGRESS ON CONDITIONAL  
11 RELEASE. THE SECURE MENTAL HEALTH FACILITY SHALL INCLUDE IN THE REQUEST  
12 THE SPECIFIC REASONS FOR REQUESTING THE HEARING AND ANY RECORDS, UNDER  
13 SEAL, OF COMMUNICATIONS AND REPORTS THAT SUPPORT THE NEED FOR THE HEARING.  
14 ON THE REQUEST OF THE PERSON OR THE SECURE MENTAL HEALTH FACILITY, THE  
15 COURT SHALL ORDER THE OUTPATIENT TREATMENT SUPERVISOR TO SUBMIT A MENTAL  
16 HEALTH REPORT TO THE COURT AND THE PARTIES NOT LATER THAN FOURTEEN DAYS  
17 BEFORE THE HEARING.

18 B. IF SUFFICIENT CAUSE EXISTS, THE SECURE MENTAL HEALTH FACILITY  
19 MAY REQUEST AN EXPEDITED HEARING. IF REQUESTED, THE COURT SHALL SET AN  
20 EXPEDITED HEARING TO MONITOR A PERSON'S PROGRESS OR MENTAL HEALTH. THE  
21 SECURE MENTAL HEALTH FACILITY MUST INCLUDE IN THE REQUEST FOR THE HEARING  
22 THE SPECIFIC REASONS FOR THE EXPEDITED HEARING AND INCLUDE RECORDS, UNDER  
23 SEAL, OF ALL COMMUNICATIONS AND REPORTS THAT SUPPORT THE NEED FOR THE  
24 EXPEDITED HEARING. THE COURT MAY ORDER AN EXPEDITED MENTAL HEALTH REPORT  
25 FROM THE PERSON'S OUTPATIENT TREATMENT SUPERVISOR.

26 C. IF A PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY AND THE  
27 SECURE MENTAL HEALTH FACILITY HAS REASON TO BELIEVE THAT THE PERSON HAS  
28 VIOLATED THE CONDITIONAL RELEASE ORDER OR THAT THE PERSON'S MENTAL HEALTH  
29 HAS DETERIORATED, THE CHIEF MEDICAL OFFICER OR THE CHIEF MEDICAL OFFICER'S  
30 DESIGNEE MAY ORDER THE PERSON'S RETURN TO HOSPITALIZATION. BEFORE  
31 ORDERING A PERSON'S RETURN TO HOSPITALIZATION, THE CHIEF MEDICAL OFFICER  
32 OR THE CHIEF MEDICAL OFFICER'S DESIGNEE SHALL CONSULT WITH THE OUTPATIENT  
33 TREATMENT SUPERVISOR OR THE SUPERVISOR'S DESIGNEE TO DETERMINE IF  
34 REHOSPITALIZATION IS NECESSARY TO PROTECT THE SAFETY OF THE PUBLIC OR THE  
35 PERSON. WITH SUFFICIENT CAUSE, THE CHIEF MEDICAL OFFICER OR THE CHIEF  
36 MEDICAL OFFICER'S DESIGNEE MAY WAIVE THE REQUIREMENT TO CONSULT WITH THE  
37 TREATMENT SUPERVISOR OR THE SUPERVISOR'S DESIGNEE AND MAY ISSUE THE RETURN  
38 ORDER IMMEDIATELY. IF THE RETURN ORDER IS ISSUED BEFORE A CONSULTATION  
39 OCCURS, THE CHIEF MEDICAL OFFICER OR THE CHIEF MEDICAL OFFICER'S DESIGNEE  
40 SHALL CONSULT WITH THE OUTPATIENT TREATMENT SUPERVISOR OR THE TREATMENT  
41 SUPERVISOR'S DESIGNEE AS SOON AS POSSIBLE AFTER THE ORDER IS ISSUED. THE  
42 COURT SHALL BE NOTIFIED IMMEDIATELY AND MUST SET A HEARING PURSUANT TO  
43 SECTION 13-3998.

1 D. ALL MONTHLY MONITORING REPORTS REGARDING A PERSON WHO IS ON  
2 CONDITIONAL RELEASE SHALL BE SUBMITTED TO THE SECURE MENTAL HEALTH  
3 FACILITY AND THE SECURE MENTAL HEALTH FACILITY MAY TAKE ANY APPROPRIATE  
4 ACTION PURSUANT TO THIS SECTION.

5 13-3996. Hearing on request of the treatment supervisor;  
6 requirements; release terms

7 A. ON REQUEST OF A TREATMENT SUPERVISOR, THE COURT SHALL GRANT A  
8 HEARING TO REVIEW THE STATUS OF THE PERSON UNDER SUPERVISION. THE  
9 TREATMENT SUPERVISOR SHALL INCLUDE IN THE REQUEST THE SPECIFIC REASONS FOR  
10 REQUESTING THE HEARING AND INCLUDE ANY RECORDS, UNDER SEAL, OF  
11 COMMUNICATIONS AND REPORTS THAT SUPPORT THE NEED FOR THE HEARING. THE  
12 TREATMENT SUPERVISOR SHALL SUBMIT THE REQUEST TO THE COURT AND THE PARTIES  
13 SIMULTANEOUSLY AND INCLUDE A MENTAL HEALTH REPORT UNDER SEAL.

14 B. IF THE TREATMENT SUPERVISOR'S RECOMMENDATION INCLUDES A REQUEST  
15 FOR THE ADDITION OF OR CHANGES TO CONDITIONAL RELEASE STATUS, A PROPOSED  
16 FORM OF ORDER MUST ACCOMPANY THE REQUEST FOR A HEARING.

17 C. IF A TREATMENT SUPERVISOR BELIEVES THAT THE PERSON HAS VIOLATED  
18 A CONDITIONAL RELEASE TERM OR THAT THE PERSON'S MENTAL HEALTH HAS  
19 DETERIORATED, AND:

20 1. IF THE PERSON IS RESIDING IN THE SECURE MENTAL HEALTH FACILITY,  
21 THE TREATMENT SUPERVISOR MAY SUSPEND THE PERSON'S CONDITIONAL RELEASE  
22 PENDING THE HEARING AND A DETERMINATION BY THE COURT. THE TREATMENT  
23 SUPERVISOR SHALL FILE A WRITTEN MENTAL HEALTH REPORT UNDER SEAL, INCLUDING  
24 THE CIRCUMSTANCES AND THE REASONS FOR ANY PROPOSED CHANGE, TO THE COURT  
25 AND THE PARTIES WITHIN SEVEN DAYS AFTER THE REQUEST FOR A HEARING.

26 2. IF THE PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY, THE  
27 COURT MAY ORDER THE PERSON'S RETURN TO HOSPITALIZATION AND SET A HEARING  
28 PURSUANT TO SECTION 13-3998. IF THE PERSON IS RETURNED TO  
29 HOSPITALIZATION, THE OUTPATIENT TREATMENT SUPERVISOR SHALL SUBMIT A MENTAL  
30 HEALTH REPORT TO THE COURT AND THE PARTIES WITHIN THREE DAYS AFTER A  
31 REQUEST IS MADE PURSUANT TO THIS SUBSECTION. THE MENTAL HEALTH REPORT  
32 MUST PROVIDE ALL OF THE INFORMATION THAT WAS CONSIDERED BEFORE GRANTING  
33 THE RETURN ORDER.

34 3. IF THE SAFETY OF THE COMMUNITY OR THE PERSON IS NOT AT RISK, THE  
35 COURT MAY ALLOW THE PERSON TO REMAIN IN THE COMMUNITY SUBJECT TO THE  
36 PERSON'S CONDITIONAL RELEASE TERMS. IF THE PERSON REMAINS IN THE  
37 COMMUNITY, THE OUTPATIENT TREATMENT SUPERVISOR SHALL SUBMIT A MENTAL  
38 HEALTH REPORT TO THE COURT AND THE PARTIES WITHIN SEVEN DAYS AFTER THE  
39 REQUEST IS MADE PURSUANT TO THIS SUBSECTION.

40 D. IF THE PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY AND THE  
41 TREATMENT SUPERVISOR HAS SUFFICIENT CAUSE TO BELIEVE THAT THE PERSON'S  
42 MENTAL HEALTH HAS DETERIORATED SUCH THAT IMMEDIATE REHOSPITALIZATION IS  
43 NECESSARY TO PROTECT THE SAFETY OF THE PUBLIC OR THE PERSON, THE TREATMENT  
44 SUPERVISOR MAY SIGN AN ORDER DIRECTING THE PERSON'S RETURN AND MEMBERS OF  
45 THE TREATMENT TEAM MAY TRANSPORT THE PERSON TO THE SECURE MENTAL HEALTH

1 FACILITY AND THE PERSON SHALL BE IMMEDIATELY READMITTED. THE TREATMENT  
2 SUPERVISOR SHALL INFORM THE COURT AND THE PARTIES WITHIN ONE COURT DAY  
3 AFTER THE PERSON'S RETURN. THE COURT SHALL SET A HEARING PURSUANT TO  
4 SECTION 13-3998. THE OUTPATIENT TREATMENT SUPERVISOR SHALL SUBMIT A  
5 WRITTEN MENTAL HEALTH REPORT TO THE COURT AND THE PARTIES WITHIN THREE  
6 DAYS AFTER THE PERSON'S RETURN AND MUST INCLUDE ALL OF THE INFORMATION  
7 THAT WAS CONSIDERED BEFORE ORDERING THE PERSON'S RETURN.

8 13-3997. Hearing on motion of a person under the jurisdiction  
9 of the court

10 A. A PERSON WHO IS UNDER THE JURISDICTION OF THE COURT MAY REQUEST  
11 AND THE COURT SHALL GRANT A HEARING NOT SOONER THAN ONE HUNDRED TWENTY  
12 DAYS AFTER THE PERSON IS COMMITTED TO THE SECURE MENTAL HEALTH FACILITY.  
13 AFTER THE INITIAL HEARING OR ANY SUBSEQUENT HEARING, A PERSON MAY REQUEST  
14 AND THE COURT SHALL GRANT A HEARING NOT SOONER THAN TWENTY MONTHS AFTER  
15 THE PREVIOUS HEARING.

16 B. THE COURT, WITH SUFFICIENT CAUSE, MAY GRANT A MOTION FOR A  
17 HEARING BY THE PERSON AT ANY TIME.

18 C. IF THE PERSON IS REQUESTING A CHANGE IN CONDITIONAL RELEASE  
19 STATUS, THE REQUEST MUST INCLUDE A PROPOSED FORM OF ORDER AND MAY BE  
20 ACCOMPANIED BY A MENTAL HEALTH REPORT.

21 D. IF THE PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY AND  
22 BELIEVES THAT REHOSPITALIZATION IS NECESSARY TO PROTECT THE PERSON'S  
23 SAFETY OR THE SAFETY OF THE PUBLIC, THE PERSON MAY PRESENT HIMSELF TO THE  
24 OUTPATIENT TREATMENT SUPERVISOR AND REQUEST THAT THE OUTPATIENT TREATMENT  
25 SUPERVISOR SIGN AN ORDER FOR IMMEDIATE READMISSION TO THE SECURE MENTAL  
26 HEALTH FACILITY. THE COURT SHALL SET A HEARING PURSUANT TO SECTION  
27 13-3998. THE INPATIENT AND OUTPATIENT TREATMENT SUPERVISORS SHALL SUBMIT  
28 A MENTAL HEALTH REPORT TO THE COURT WITHIN SEVEN DAYS AFTER THE PERSON IS  
29 READMITTED.

30 13-3998. Return of person under jurisdiction to secure mental  
31 health facility; procedures

32 A. A WRITTEN ORDER OF THE COURT, THE CHIEF MEDICAL OFFICER OR THE  
33 CHIEF MEDICAL OFFICER'S DESIGNEE OR THE OUTPATIENT TREATMENT SUPERVISOR IS  
34 SUFFICIENT FOR A LAW ENFORCEMENT OFFICER TO TAKE A PERSON INTO CUSTODY AND  
35 TO TRANSPORT THE PERSON TO A SECURE MENTAL HEALTH FACILITY. A COPY OF THE  
36 RETURN ORDER MUST BE IMMEDIATELY PROVIDED TO THE PARTIES AND THE COURT.  
37 THE SHERIFF OR OTHER PEACE OFFICER SHALL EXECUTE THE ORDER AND IMMEDIATELY  
38 NOTIFY THE COURT OF THE PERSON'S RETURN TO THE SECURE MENTAL HEALTH  
39 FACILITY.

40 B. WITHIN TWENTY-FOUR HOURS AFTER A RETURN ORDER IS ISSUED, THE  
41 ENTITY THAT ORDERED THE RETURN SHALL PROVIDE TO THE PARTIES ALL  
42 INFORMATION AND EVIDENCE THAT WAS CONSIDERED WHEN ORDERING THE PERSON'S  
43 RETURN.

1 C. WITHIN SEVEN DAYS AFTER A PERSON'S RETURN TO THE SECURE MENTAL  
2 HEALTH FACILITY PURSUANT TO SECTION 13-3995, 13-3996 OR 13-3997, THE COURT  
3 SHALL HOLD A HEARING TO DETERMINE IF THE RETURN WAS SUPPORTED BY  
4 SUFFICIENT CAUSE. IF THE PERSON'S RETURN WAS:

5 1. NOT SUPPORTED BY SUFFICIENT CAUSE, THE COURT SHALL ORDER THE  
6 PERSON'S IMMEDIATE RELEASE UNDER THE PREVIOUSLY IMPOSED CONDITIONAL  
7 RELEASE TERMS. THE COURT, WITH SUFFICIENT CAUSE, MAY AMEND THE PERSON'S  
8 CONDITIONAL RELEASE TERMS.

9 2. SUPPORTED BY SUFFICIENT CAUSE, THE COURT MAY AMEND THE  
10 CONDITIONAL RELEASE TERMS AND RELEASE THE PERSON IF THE COURT FINDS BY  
11 CLEAR AND CONVINCING EVIDENCE THAT THE SAFETY OF THE COMMUNITY AND THE  
12 PERSON IS PROTECTED BY THE ORIGINAL OR THE AMENDED CONDITIONAL RELEASE  
13 TERMS.

14 3. SUPPORTED BY SUFFICIENT CAUSE AND THE COURT DETERMINES THAT THE  
15 PERSON IS IN NEED OF FURTHER EVALUATION OR TREATMENT, THE COURT MAY  
16 SUSPEND THE TERMS OF CONDITIONAL RELEASE AND SET ANOTHER HEARING WITHIN  
17 NINETY DAYS. THE INPATIENT TREATMENT SUPERVISOR SHALL CONSULT WITH THE  
18 OUTPATIENT TREATMENT SUPERVISOR AND SUBMIT A MENTAL HEALTH REPORT TO THE  
19 COURT AND PARTIES BY A DATE SET BY THE COURT. THE REPORT MUST CONTAIN A  
20 RECOMMENDATION TO EITHER TERMINATE, AMEND OR REINSTATE THE PERSON'S  
21 CONDITIONAL RELEASE AND INCLUDE A PROPOSED FORM OF ORDER.

22 13-3999. Hearing on expiration of jurisdiction

23 A. AT LEAST THIRTY DAYS BEFORE THE EXPIRATION OF JURISDICTION OVER  
24 A PERSON PURSUANT TO SECTION 13-502, THE COURT SHALL SET AN EXPIRATION  
25 HEARING AND ORDER THE TREATMENT SUPERVISOR TO PROVIDE TO THE COURT AND THE  
26 PARTIES A MENTAL HEALTH REPORT. THE MENTAL HEALTH REPORT MUST INCLUDE AN  
27 EVALUATION OF WHETHER THE PERSON MAY BE A DANGER TO SELF OR OTHERS OR HAS  
28 A PERSISTENT, ACUTE OR GRAVE DISABILITY AND WHETHER THE PERSON MEETS THE  
29 CRITERIA FOR INVOLUNTARY HOSPITALIZATION PURSUANT TO TITLE 36, CHAPTER 5.

30 B. AFTER AN EXPIRATION HEARING, THE COURT MAY ALLOW JURISDICTION TO  
31 EXPIRE WITHOUT FURTHER ACTION OR MAY ORDER THE COUNTY ATTORNEY OF THE  
32 COMMITTING COUNTY TO BEGIN PROCEEDINGS FOR COURT-ORDERED EVALUATION  
33 PURSUANT TO TITLE 36, CHAPTER 5.

34 C. IF THE COURT ORDERS AN EVALUATION FOR A PERSON WHO RESIDES IN  
35 THE COMMUNITY, THE ORDER MUST REQUIRE THE PERSON'S APPEARANCE AT A  
36 SPECIFIED TIME AND LOCATION AND PARTICIPATION IN THE EVALUATION BEFORE THE  
37 EXPIRATION OF JURISDICTION. THE TREATMENT SUPERVISOR SHALL ASSIST THE  
38 PERSON WITH SECURING TRANSPORTATION TO THE LOCATION OF THE EVALUATION.

39 D. IF THE COURT ORDERS AN EVALUATION FOR A PERSON WHO RESIDES IN A  
40 SECURE MENTAL HEALTH FACILITY, THE COURT MUST ORDER THE SHERIFF OF THE  
41 COMMITTING COUNTY TO TRANSPORT THE PERSON AT A SPECIFIED TIME AND LOCATION  
42 SO THAT THE PERSON MAY PARTICIPATE IN THE EVALUATION BEFORE THE EXPIRATION  
43 OF SUPERVISORY JURISDICTION OVER THE PERSON.

1           13-4000. Expert witness; opinion evidence

2           A. BEFORE ANY HEARING, EITHER PARTY MAY RETAIN AN INDEPENDENT  
3 QUALIFIED EXPERT TO EVALUATE THE PERSON AND MAKE RECOMMENDATIONS TO THE  
4 COURT.

5           B. THE COUNTY OF THE COMMITTING COURT SHALL PAY ALL COSTS  
6 ASSOCIATED WITH THE EVALUATION IF THE PERSON IS INDIGENT.

7           C. IF THE PERSON RETAINS A QUALIFIED EXPERT, THE QUALIFIED EXPERT  
8 SHALL PROVIDE TO THE STATE'S EXPERT, ON REQUEST, ALL RECORDS CONSIDERED OR  
9 GENERATED BY THE QUALIFIED EXPERT.

10          D. IF THE PERSON RETAINS A QUALIFIED EXPERT, THE PERSON MUST SUBMIT  
11 TO THE STATE'S EVALUATION, IF REQUESTED, OR IS PRECLUDED FROM PRESENTING  
12 THE PERSON'S OWN QUALIFIED EXPERT OPINION.

13          E. IF PROVIDING TESTIMONY, AN INDEPENDENT QUALIFIED EXPERT WHO IS  
14 RETAINED BY EITHER PARTY MUST PROVIDE A WRITTEN REPORT TO THE REMAINING  
15 PARTIES AT LEAST FOURTEEN DAYS BEFORE A HEARING. IF REQUESTED, THE  
16 QUALIFIED EXPERT MUST BE AVAILABLE FOR AN INTERVIEW OR DEPOSITION BY THE  
17 OPPOSING PARTY.

18          F. ANY PARTY MAY REQUEST AND THE COURT, WITH SUFFICIENT CAUSE,  
19 SHALL GRANT A CONTINUANCE FOR A HEARING TO ACCOMMODATE A REASONABLE  
20 REQUEST TO OBTAIN A QUALIFIED EXPERT EVALUATION. A HEARING THAT IS  
21 REQUESTED PURSUANT TO SECTION 13-3998, SUBSECTION C MAY NOT BE CONTINUED  
22 AT THE STATE'S REQUEST.

23          G. THE COURT, WITH SUFFICIENT CAUSE, MAY ORDER A MENTAL HEALTH  
24 EVALUATION BY ITS OWN APPOINTED QUALIFIED EXPERT. AN EVALUATION CONDUCTED  
25 PURSUANT TO THIS SUBSECTION IS AT THE COUNTY'S EXPENSE. A QUALIFIED  
26 EXPERT WHO IS APPOINTED BY THE COURT MUST PROVIDE A WRITTEN REPORT TO THE  
27 PARTIES AT LEAST FOURTEEN DAYS BEFORE A HEARING. THE EXPERT MUST BE  
28 AVAILABLE TO TESTIFY AND, IF REQUESTED, BE INTERVIEWED OR DEPOSED BY ANY  
29 PARTY.

30          Sec. 11. Section 13-4416, Arizona Revised Statutes, is amended to  
31 read:

32           13-4416. Notice of release, discharge or escape from a mental  
33 health treatment agency

34          A. If the victim has made a request for notice, a mental health  
35 treatment agency shall mail to the victim at least ten days before the  
36 release or discharge of the person accused or convicted of committing a  
37 criminal offense against the victim, notice of the release or discharge of  
38 the person who is placed by court order in a mental health treatment  
39 agency pursuant to section ~~13-3994~~ 13-3992, 31-226, 31-226.01, 36-540.01,  
40 36-541.01 or 36-3707.

41          B. A mental health treatment agency shall mail to the victim  
42 immediately after the escape or subsequent readmission of the person  
43 accused or convicted of committing a criminal offense against the victim,  
44 notice of the escape or subsequent readmission of the person who is placed

1 by court order in a mental health treatment agency pursuant to section  
2 ~~13-3994~~ 13-3992, 31-226, 31-226.01, 36-540.01, 36-541.01 or 36-3707.

3 Sec. 12. Repeal

4 Title 31, chapter 4, Arizona Revised Statutes, is repealed.

5 Sec. 13. Section 36-206, Arizona Revised Statutes, is amended to  
6 read:

7 36-206. Duties of superintendent; clinical assessment

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

16 B. The superintendent in December each year shall estimate the  
17 probable daily per capita cost of treatment and maintenance of each  
18 category of patients for the next ensuing year as determined in accordance  
19 with standard accounting practices. A statement of the estimate shall be  
20 provided to the director in January of the following year.

21 C. The superintendent, on request, shall provide to the director a  
22 clinical assessment of the state hospital's programs.

23 D. On or before August 1 of each year, the director shall establish  
24 maximum funded capacity and a percentage allocation formula for forensic  
25 and civil bed capacity at the Arizona state hospital based on census data  
26 collected pursuant to sections ~~13-3994~~ 13-3992, 13-4512, 36-202.01 and  
27 36-503.03. By June 1 of each year, the director shall solicit and  
28 consider the recommendations of representatives of the county board of  
29 supervisors, the Arizona prosecuting attorneys' advisory council and the  
30 superior court when establishing this formula. In addition to  
31 establishing the formula, the director, the county board of supervisors,  
32 the Arizona prosecuting attorneys' advisory council and the superior court  
33 shall develop a contingency plan for the placement of patients subject to  
34 sections ~~13-3994~~ 13-3992, 13-4512, 36-202.01 and 36-503.03 in times of  
35 emergency and other unforeseen circumstances. The director shall notify  
36 the governor, the president of the senate, the speaker of the house of  
37 representatives and the chairman of each county board of supervisors of  
38 the funded capacity and allocation formula for the current fiscal year.  
39 Thirty days before the notification of the forensic and civil bed funded  
40 capacity formula, the director shall provide this information to the  
41 representatives of the county board of supervisors, the Arizona  
42 prosecuting attorneys' advisory council and the superior court for  
43 comment. The director shall include these comments when issuing the  
44 formula.

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

3           36-209. Reports by superintendent and director

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

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

9           2. Methods of treatment used and the results.

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

14           4. Census data for treatment programs pursuant to sections ~~13-3994~~  
15 ~~13-3992~~, 13-4512, 36-202.01 and 36-503.03.

16           5. A complete employment and personnel record.

17           6. The condition of existing equipment.

18           7. Recommendations for improvement of the institution.

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

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

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

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

28           3. The balance on hand.

29           4. The estimated expenditures for the current month.

30           5. An inventory report.

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

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

38           E. By October 1 of each year, the director shall submit to the  
39 governor a comprehensive report of the activities of the state hospital  
40 during the preceding fiscal year, which shall include the annual reports  
41 of the superintendent, and shall contain:

42           1. An account of the work done.

43           2. Recommendations for improvements.

1           3. Financial statements that clearly reflect the origin and  
2 disposition of all monies that have come into the hands of the director or  
3 an employee through appropriations or otherwise.

4           F. The director shall make such supplemental reports as the  
5 governor or the legislature requests.

6           G. The annual report prescribed by subsection E of this section  
7 shall be published for the information of the public and five copies shall  
8 be delivered to the chief clerk of the house of representatives and the  
9 secretary of the senate, respectively, who shall keep them on file for the  
10 use of the members of each house.

11          Sec. 15. Section 36-545.01, Arizona Revised Statutes, is amended to  
12 read:

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

18           A. When a patient is admitted to the state hospital for  
19 court-ordered treatment pursuant to article 5 of this chapter or pursuant  
20 to section ~~13-3994~~ 13-3992, the business manager of the state hospital  
21 shall inquire into the ability of the patient to pay the costs of  
22 examination, maintenance and treatment. The business manager shall file  
23 with the clerk of the court a written report of the manager's findings and  
24 the basis of those findings.

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

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

39           D. The court, if necessary, may appoint a conservator of the  
40 patient to carry out this section. If a conservator is appointed, the  
41 clerk of the court shall file a certificate so stating. All proceedings  
42 relating to that conservatorship shall be had as provided by law for  
43 conservators of estates. The conservator shall pay the amount ordered by  
44 the court 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  
5 the minor's parents if it is determined that the parents have the ability  
6 to pay.

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

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

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

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

23 Sec. 16. Repeal

24 Section 41-3020.11, Arizona Revised Statutes, is repealed.

25 Sec. 17. Section 41-3803, Arizona Revised Statutes, is amended to  
26 read:

27 41-3803. Independent oversight committee on the mentally ill;  
28 training plan; report posting

29 A. The independent oversight committee on the mentally ill is  
30 established in the department of administration to promote the rights of  
31 persons who receive behavioral health services pursuant to:

- 32 1. Section 13-3992 OR 13-3994.
- 33 2. Title 36, chapters 5 and 34.

34 B. Each region of this state covered by a regional behavioral  
35 health authority shall have at least one independent oversight committee  
36 with the authority and responsibilities as prescribed by the department of  
37 administration pursuant to rules adopted by the department relating to  
38 behavioral health services.

39 C. The director of the department may establish additional  
40 committees to serve persons who receive behavioral health services or to  
41 oversee the activities of any service provider.

42 D. Each independent oversight committee shall consist of at least  
43 seven and not more than fifteen members appointed by the director of the  
44 department with expertise in at least one of the following areas:

- 1           1. Psychology.
- 2           2. Law.
- 3           3. Medicine.
- 4           4. Education.
- 5           5. Special education.
- 6           6. Social work.
- 7           7. Mental health.
- 8           8. Housing for the mentally ill.
- 9           9. Criminal justice.
- 10          10. Public safety.

11           E. Each independent oversight committee, if appropriate, shall  
12 include at least two parents of children who receive behavioral health  
13 services pursuant to title 36, chapter 34.

14           F. Each independent oversight committee shall include at least one  
15 member who is a current or former client of the behavioral health system.

16           G. Current or former providers or employees of providers that have  
17 contracted with a regional behavioral health authority may serve on an  
18 independent oversight committee but may not hold more than two positions  
19 on the committee.

20           H. Each independent oversight committee may hold one or more  
21 community forums annually to receive comments regarding the experiences of  
22 individuals living with serious mental illness, and their family members  
23 and caregivers, across the care continuum.

24           I. The department shall ensure that each regional behavioral health  
25 authority and its providers develop and implement a human rights training  
26 plan to ensure that providers are trained regarding clients' human rights  
27 and the duties of the independent oversight committees.

28           J. The independent oversight committee at the Arizona state  
29 hospital shall have oversight of patients who have been determined to have  
30 a serious mental illness and who are hospitalized and receiving behavioral  
31 health services at the civil and forensic hospital pursuant to  
32 subsection A of this section. The Arizona state hospital shall provide to  
33 the committee, subject to state and federal law, information regarding the  
34 following:

- 35           1. Seclusion of and the use of restraints on patients.
- 36           2. Incident accident reports.
- 37           3. Allegations of illegal, dangerous or inhumane treatment of  
38 patients.
- 39           4. Provisions of services to patients in need of special  
40 assistance.
- 41           5. Allegations of neglect and abuse.
- 42           6. Allegations of denial of rights afforded to patients with  
43 serious mental illness except where a right may be restricted for the  
44 safety of a patient, the state hospital or the public.

1           K. Each committee shall be organized pursuant to this section and  
2 the requirements of section 41-3804.

3           Sec. 18. Transfer of jurisdiction of psychiatric security  
4                                   review board powers and duties; monthly reports

5           A. Beginning from and after the effective date of this act, the  
6 superior court shall have exclusive supervisory jurisdiction over all  
7 persons who are under the supervision of the psychiatric security review  
8 board on the effective date of this act.

9           B. The superior court is vested with the powers and duties of the  
10 psychiatric security review board as they existed before the effective  
11 date of this act to carry out the provisions of this act.

12           Sec. 19. Effective date

13           This act is effective from and after June 30, 2021.