

guilty except insane; court jurisdiction.

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 390
SENATE BILL 1839

AN ACT

AMENDING SECTIONS 11-584, 12-253, 12-820.02 AND 13-502, ARIZONA REVISED STATUTES; AMENDING SECTION 13-502, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTION 13-2503, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-3991; AMENDING SECTION 13-3991, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 13-3992; AMENDING SECTION 13-3992, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING SECTIONS 13-3993 AND 13-3994, ARIZONA REVISED STATUTES; AMENDING SECTION 13-3994, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3995; AMENDING SECTION 13-3995, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3996; AMENDING SECTION 13-3996, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3997; AMENDING SECTION 13-3997, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3998; AMENDING SECTION 13-3998, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3999; AMENDING SECTION 13-3999, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED

STATUTES, BY ADDING SECTION 13-4000; AMENDING SECTION 13-4000, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4001; AMENDING SECTIONS 13-4065, 13-4416, 31-501 AND 31-502, ARIZONA REVISED STATUTES; REPEALING TITLE 31, CHAPTER 4, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-206 AND 36-209, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-220; REPEALING SECTION 36-220, ARIZONA REVISED STATUTES; AMENDING SECTION 36-545.01, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3028.11, 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~~ \$25.

9 2. Order an administrative assessment fee of not more than
10 ~~twenty-five dollars~~ \$25 to be paid by the juvenile or the juvenile's
11 parent or 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 5. The issuance of or failure to revoke or suspend any permit,
2 license, certificate, approval, order or similar authorization for which
3 absolute immunity is not provided pursuant to section 12-820.01.

4 6. The failure to discover violations of any provision of law when
5 inspections are done of property other than property owned by the public
6 entity in question.

7 7. An injury to the driver of a motor vehicle that is attributable
8 to the violation by the driver of section 28-693, 28-1381 or 28-1382.

9 8. The failure to prevent the sale or transfer of a handgun to a
10 person whose receipt or possession of the handgun is unlawful under any
11 federal law or any law of this state.

12 9. Preventing the sale or transfer of a handgun to a person who may
13 lawfully receive or possess a handgun.

14 10. The failure to detain a juvenile taken into temporary custody
15 or arrested for a criminal offense or delinquent or incorrigible act in
16 the appropriate detention facility, jail or lockup described in section
17 8-305.

18 11. An injury caused by a peace officer if the injury was caused by
19 any act or omission while rendering emergency care at the scene of an
20 emergency occurrence.

21 B. The qualified immunity provided in this section applies to a
22 public entity or public employee if the injury or damage was caused by a
23 contractor's employee or a contractor of a public entity acting within the
24 scope of the contract. The qualified immunity provided in this section
25 does not apply to the contractor or the contractor's employee.

26 Sec. 4. Section 13-502, Arizona Revised Statutes, is amended to
27 read:

28 13-502. Insanity test; burden of proof; guilty except insane
29 verdict

30 A. A person may be found guilty except insane if at the time of the
31 commission of the criminal act the person was afflicted with a mental
32 disease or defect of such severity that the person did not know the
33 criminal act was wrong. A mental disease or defect constituting legal
34 insanity is an affirmative defense. Mental disease or defect does not
35 include disorders that result from acute voluntary intoxication or
36 withdrawal from alcohol or drugs, character defects, psychosexual
37 disorders or impulse control disorders. Conditions that do not constitute
38 legal insanity include ~~but are not limited to~~ momentary, temporary
39 conditions arising from the pressure of the circumstances, moral
40 decadence, depravity or passion growing out of anger, jealousy, revenge,
41 hatred or other motives in a person who does not suffer from a mental
42 disease or defect or an abnormality that is manifested only by criminal
43 conduct.

44 B. In a case involving the death or serious physical injury of or
45 the threat of death or serious physical injury to another person, if a

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

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

40 D. If the finder of fact finds the defendant guilty except insane,
41 the court shall determine the sentence the defendant could have received
42 pursuant to section 13-707 or section 13-751, subsection A or the
43 presumptive sentence the defendant could have received pursuant to section
44 13-702, section 13-703, section 13-704, section 13-705, section 13-706,
45 subsection A, section 13-710 or section 13-1406 if the defendant had not

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

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

14 Sec. 5. Section 13-502, Arizona Revised Statutes, as amended by
15 section 4 of this act, is amended to read:

16 13-502. Insanity test; burden of proof; guilty except insane
17 verdict

18 A. A person may be found guilty except insane if at the time of the
19 commission of the criminal act the person was afflicted with a mental
20 disease or defect of such severity that the person did not know the
21 criminal act was wrong. A mental disease or defect constituting legal
22 insanity is an affirmative defense. Mental disease or defect does not
23 include disorders that result from acute voluntary intoxication or
24 withdrawal from alcohol or drugs, character defects, psychosexual
25 disorders or impulse control disorders. Conditions that do not constitute
26 legal insanity include momentary, temporary conditions arising from the
27 pressure of the circumstances, moral decadence, depravity or passion
28 growing out of anger, jealousy, revenge, hatred or other motives in a
29 person who does not suffer from a mental disease or defect or an
30 abnormality that is manifested only by criminal conduct.

31 B. In a case involving the death or serious physical injury of or
32 the threat of death or serious physical injury to another person, if a
33 plea of insanity is made and the court determines that a reasonable basis
34 exists to support the plea, the court may commit the defendant to a secure
35 state mental health facility under the department of health services, a
36 secure county mental health evaluation and treatment facility or another
37 secure licensed mental health facility for up to thirty days for mental
38 health evaluation and treatment. Experts at the mental health facility
39 who are licensed pursuant to title 32, who are familiar with this state's
40 insanity statutes, who are specialists in mental diseases and defects and
41 who are knowledgeable concerning insanity shall observe and evaluate the
42 defendant. The expert or experts who examine the defendant shall submit a
43 written report of the evaluation to the court, the defendant's attorney
44 and the prosecutor. The court shall order the defendant to pay the costs
45 of the mental health facility to the clerk of the court. The clerk of the

1 court shall transmit the reimbursements to the mental health facility for
2 all of its costs. If the court finds the defendant is indigent or
3 otherwise is unable to pay all or any of the costs, the court shall order
4 the county to reimburse the mental health facility for the remainder of
5 the costs. Notwithstanding section 36-545.02, the mental health facility
6 may maintain the reimbursements. If the court does not commit the
7 defendant to a secure state mental health facility, a secure county mental
8 health evaluation and treatment facility or another secure licensed mental
9 health facility, the court shall appoint an independent expert who is
10 licensed pursuant to title 32, who is familiar with this state's insanity
11 statutes, who is a specialist in mental diseases and defects and who is
12 knowledgeable concerning insanity to observe and evaluate the defendant.
13 The expert who examines the defendant shall submit a written report of the
14 evaluation to the court, the defendant's attorney and the prosecutor. The
15 court shall order the defendant to pay the costs of the services of the
16 independent expert to the clerk of the court. The clerk of the court
17 shall transmit the reimbursements to the expert. If the court finds the
18 defendant is indigent or otherwise unable to pay all or any of the costs,
19 the court shall order the county to reimburse the expert for the remainder
20 of the costs. This subsection does not prohibit the defendant or this
21 state from obtaining additional psychiatric examinations by other mental
22 health experts who are licensed pursuant to title 32, who are familiar
23 with this state's insanity statutes, who are specialists in mental
24 diseases and defects and who are knowledgeable concerning insanity.

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

27 D. If the finder of fact finds the defendant guilty except insane,
28 the court shall determine the sentence the defendant could have received
29 pursuant to section 13-707 or section 13-751, subsection A or the
30 presumptive sentence the defendant could have received pursuant to section
31 13-702, section 13-703, section 13-704, section 13-705, section 13-706,
32 subsection A, section 13-710 or section 13-1406 if the defendant had not
33 been found insane, and the judge shall suspend the sentence and shall
34 order the defendant to be placed AND REMAIN under the jurisdiction of the
35 ~~psychiatric security review board~~ SUPERIOR COURT and committed to a secure
36 state mental health facility under the department of health services
37 pursuant to section 13-3992 for the length of that sentence. In making
38 this determination the court shall not consider the sentence enhancements
39 for prior convictions under section 13-703 or 13-704. The court shall
40 expressly identify each act that the defendant committed and separately
41 find whether each act involved the death or physical injury of or a
42 substantial threat of death or physical injury to another person.

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

1 Sec. 6. Section 13-2503, Arizona Revised Statutes, is amended to
2 read:

3 13-2503. Escape in the second degree; classification

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

5 1. Escaping or attempting to escape from a juvenile secure care
6 facility, a juvenile detention facility or an adult correctional facility;
7 or

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

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

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

18 B. Escape in the second degree pursuant to subsection A, paragraph
19 1, 2 or 4 of this section is a class 5 felony, and the sentence imposed
20 for a violation of this section shall run consecutively to any sentence of
21 imprisonment for which the person was confined or to any term of community
22 supervision for the sentence including probation, parole, work furlough or
23 any other release. Escape in the second degree pursuant to subsection A,
24 paragraph 3 of this section is a class 2 misdemeanor.

25 Sec. 7. Heading change

26 The article heading of title 13, chapter 38, article 14, Arizona
27 Revised Statutes, is changed from "PROCEDURES ON ISSUE OF INSANITY OF
28 DEFENDANT" to "PSYCHIATRIC SECURITY REVIEW BOARD".

29 Sec. 8. Transfer and renumber

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

33 Sec. 9. Title 13, chapter 38, article 14, Arizona Revised Statutes,
34 is amended by adding a new section 13-3991, to read:

35 13-3991. Definitions

36 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

37 1. "BOARD" MEANS THE PSYCHIATRIC SECURITY REVIEW BOARD.

38 2. "CHAIRPERSON" MEANS THE PRESIDING OFFICER OF THE BOARD.

39 3. "CLEAR AND CONVINCING EVIDENCE" MEANS EVIDENCE THAT MAKES THE
40 EXISTENCE OF A CLAIM HIGHLY PROBABLE AND THAT IS MORE THAN A PREPONDERANCE
41 BUT LESS THAN BEYOND A REASONABLE DOUBT.

42 4. "CONDITIONAL RELEASE" MEANS RELEASE FROM A SECURE MENTAL HEALTH
43 FACILITY UNDER THE SPECIFIED WRITTEN CONDITIONS.

44 5. "DANGEROUS" MEANS A DANGER OF INFLECTING SERIOUS PHYSICAL HARM
45 ON ONESELF OR OTHERS, INCLUDING ATTEMPTED SUICIDE OR THE SERIOUS THREAT OF

1 SUICIDE, IF THE THREAT IS SUCH THAT, WHEN CONSIDERED IN THE LIGHT OF THE
2 THREAT'S CONTEXT AND ANY PREVIOUS ACTS, THE THREAT IS SUBSTANTIALLY
3 SUPPORTIVE OF AN EXPECTATION THAT IT WILL BE CARRIED OUT.

4 6. "INDEPENDENT PASS" MEANS A PASS THAT ALLOWS A PERSON TO SPEND
5 INDEPENDENT TIME IN THE COMMUNITY WHILE REMAINING A RESIDENT OF A SECURE
6 MENTAL HEALTH FACILITY.

7 7. "MENTAL DISEASE OR DEFECT" MEANS A CONDITION THAT WAS THE BASIS
8 FOR A PERSON BEING FOUND GUILTY EXCEPT INSANE PURSUANT TO SECTION 13-502
9 OR THAT WAS SUBSEQUENTLY DIAGNOSED WHILE THE PERSON WAS COMMITTED TO THE
10 SECURE MENTAL HEALTH FACILITY AND FOR WHICH THE PERSON NEEDS ONGOING
11 MENTAL HEALTH TREATMENT.

12 8. "MENTAL HEALTH REPORT" MEANS A REPORT THAT IS REQUESTED BY THE
13 BOARD, THAT IS WRITTEN BY A TREATMENT SUPERVISOR OR OTHER QUALIFIED
14 EXPERT, THAT DOCUMENTS THE CONDITION OF A PERSON'S MENTAL HEALTH AND THAT,
15 AT A MINIMUM, INCLUDES ALL OF THE FOLLOWING:

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

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

19 (c) A DESCRIPTION OF THE PERSON'S TREATMENT REGIMEN, INCLUDING ANY
20 PRESCRIBED MEDICATIONS AND THE PERSON'S COMPLIANCE WITH THE PRESCRIBED
21 MEDICATIONS.

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

24 (e) IF SYMPTOMS OF MENTAL DISEASE OR DEFECT ARE IN REMISSION, HOW
25 LONG THE SYMPTOMS HAVE BEEN IN REMISSION AND WHAT FACTORS HAVE CONTRIBUTED
26 TO THE REMISSION.

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

29 (g) A RISK ASSESSMENT, IF CLINICALLY INDICATED.

30 9. "PARTIES" INCLUDES THE PERSON UNDER THE BOARD'S JURISDICTION,
31 THE SECURE MENTAL HEALTH FACILITY, THE OUTPATIENT TREATMENT SUPERVISOR AND
32 THE COUNTY ATTORNEY OR ATTORNEY GENERAL WHO IS REPRESENTING THE STATE.

33 10. "PASS SUPERVISOR" MEANS A PERSON OR AGENCY REPRESENTATIVE WHO
34 IS APPROVED BY THE BOARD TO ACCOMPANY A PERSON ON APPROVED CONDITIONAL
35 RELEASE FOR PASS PRIVILEGES.

36 11. "PROPENSITY TO REOFFEND" MEANS THE LIKELIHOOD THAT A PERSON
37 WILL VIOLENTLY REOFFEND BASED ON THE PERSON'S HISTORY OF CRIMINAL BEHAVIOR
38 OR INVOLVEMENT IN THE CRIMINAL JUSTICE SYSTEM.

39 12. "QUALIFIED EXPERT" MEANS A PSYCHOLOGIST OR PSYCHIATRIST WHO:

40 (a) IS FAMILIAR WITH INPATIENT AND OUTPATIENT TREATMENT SERVICES IN
41 THIS STATE.

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

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

4 13. "RISK ASSESSMENT" MEANS A COMPREHENSIVE ASSESSMENT OF A
5 PERSON'S RISK FOR VIOLENT BEHAVIOR THAT IS CONDUCTED BY A QUALIFIED EXPERT
6 AND THAT INCLUDES ALL OF THE FOLLOWING:

7 (a) THE PERSON'S IDENTIFYING INFORMATION.

8 (b) THE REASON FOR THE RISK ASSESSMENT AND A LIST OF THE RECORDS
9 REVIEWED, THE SOURCES OF THE INFORMATION AND ANY PSYCHOLOGICAL TESTS OR
10 RISK ASSESSMENT TOOLS ADMINISTERED.

11 (c) A THOROUGH HISTORY OF THE PERSON'S PSYCHOSOCIAL DEVELOPMENT AND
12 CRIMINAL HISTORY, INCLUDING THE INDEX OFFENSE AND ANY OTHER HISTORY OF
13 VIOLENCE.

14 (d) A CLINICAL ASSESSMENT, INCLUDING THE PERSON'S MENTAL HEALTH,
15 PHYSICAL HEALTH AND SUBSTANCE ABUSE HISTORY, THE PERSON'S COURSE OF
16 TREATMENT PROGRESS OR REGRESS, THE PERSON'S UNDERSTANDING OF THE
17 COMMITTING OFFENSE, HOW THE MENTAL DISEASE OR DEFECT CONTRIBUTED TO THE
18 PERSON'S VIOLENT BEHAVIOR, THE PERSON'S PLANS IF GRANTED CONDITIONAL
19 RELEASE AND A CURRENT MENTAL STATUS EXAMINATION OF THE PERSON.

20 (e) THE PERSON'S PROGRESS AND REGRESS IN TREATMENT, INCLUDING:

21 (i) ACTIVE MANAGEMENT IN TREATMENT.

22 (ii) MEDICATION COMPLIANCE.

23 (iii) MEETING OR EXCEEDING TREATMENT GOALS.

24 (iv) A HISTORY OF RULE VIOLATIONS.

25 (v) COMPLIANCE WITH CONDITIONS OF RELEASE, IF APPLICABLE.

26 (vi) ACCEPTANCE OF HAVING A MENTAL ILLNESS AND THE NEED FOR
27 TREATMENT.

28 (vii) THE LEVEL OF RELIANCE ON AS NEEDED MEDICATIONS TO TREAT
29 SYMPTOMS OF MENTAL ILLNESS.

30 (f) AN ASSESSMENT OF THE PERSON'S RISK FOR VIOLENCE, INCLUDING THE
31 PROPENSITY TO REOFFEND.

32 (g) CASE FORMULATION AND RECOMMENDATIONS, INCLUDING THE PERSON'S
33 RELATIVE RISK FOR VIOLENCE IN THE CONTEXT OF THE PROPOSED RELEASE
34 CONDITIONS, THE IDENTIFICATION OF RISK VARIABLES THAT REQUIRE ONGOING
35 MANAGEMENT, ANY TREATMENT RECOMMENDATIONS, ANY RECOMMENDED AMENDMENTS TO
36 CONDITIONAL RELEASE AND AN OPINION REGARDING WHEN AN UPDATED RISK
37 ASSESSMENT MIGHT BE WARRANTED.

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

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

43 16. "SUFFICIENT CAUSE" MEANS A REASONABLE BELIEF THAT THE
44 CIRCUMSTANCE IS TRUE OR NECESSARY AND IS LESS THAN A PREPONDERANCE.

1 17. "TREATMENT SUPERVISOR" MEANS A QUALIFIED EXPERT WHO IS A
2 PERSON'S INPATIENT OR OUTPATIENT SUPERVISING AND TREATING CLINICIAN.

3 Sec. 10. Section 13-3991, Arizona Revised Statutes, as added by
4 section 9 of this act, is amended to read:

5 13-3991. Definitions

6 In this article, unless the context otherwise requires:

7 ~~1. "Board" means the psychiatric security review board.~~

8 ~~2. "Chairperson" means the presiding officer of the board.~~

9 ~~3. "Clear and convincing evidence" means evidence that makes the
10 existence of a claim highly probable and that is more than a preponderance
11 but less than beyond a reasonable doubt.~~

12 ~~4.~~ 1. "Conditional release" means release from a secure mental
13 health facility under the specified written conditions.

14 ~~5.~~ 2. "Dangerous" means a danger of inflicting serious physical
15 harm on oneself or others, including attempted suicide or the serious
16 threat of suicide, if the threat is such that, when considered in the
17 light of the threat's context and any previous acts, the threat is
18 substantially supportive of an expectation that it will be carried out.

19 ~~6.~~ 3. "Independent pass" means a pass that allows a person to
20 spend independent time in the community while remaining a resident of a
21 secure mental health facility.

22 ~~7.~~ 4. "Mental disease or defect" means a condition that was the
23 basis for a person being found guilty except insane pursuant to section
24 13-502 or that was subsequently diagnosed while the person was committed
25 to the secure mental health facility and for which the person needs
26 ongoing mental health treatment.

27 ~~8.~~ 5. "Mental health report" means a report that is ~~requested by~~
28 ~~the board, that is~~ written by a treatment supervisor or other qualified
29 expert, that documents the condition of a person's mental health and that,
30 at a minimum, includes all of the following:

31 (a) The person's mental condition, symptoms and diagnosis on
32 admission to a secure mental health facility.

33 (b) The person's current mental condition, symptoms and diagnosis.

34 (c) A description of the person's treatment regimen, including any
35 prescribed medications and the person's compliance with the prescribed
36 medications.

37 (d) A description of the person's typical interactions with staff
38 and peers and any significant variation in typical interactions.

39 (e) If symptoms of mental disease or defect are in remission, how
40 long the symptoms have been in remission and what factors have contributed
41 to the remission.

42 (f) Any recommendation for changes in conditional release status
43 and the clinical reasons for the recommendation.

44 (g) A risk assessment, if clinically indicated.

1 ~~9.~~ 6. "Parties" includes the person under the ~~board's~~ COURT'S
2 jurisdiction, the secure mental health facility, the outpatient treatment
3 supervisor and the county attorney or the attorney general who is
4 representing the state.

5 ~~10.~~ 7. "Pass supervisor" means a person or agency representative
6 who is approved by the ~~board~~ COURT to accompany a person on approved
7 conditional release for pass privileges.

8 ~~11.~~ 8. "Propensity to reoffend" means the likelihood that a person
9 will violently reoffend based on the person's history of criminal behavior
10 or involuntarily in the criminal justice system.

11 ~~12.~~ 9. "Qualified expert" means a psychologist or psychiatrist
12 who:

13 (a) Is familiar with inpatient and outpatient treatment services in
14 this state.

15 (b) Is qualified by education and experience to diagnose, evaluate
16 and make clinical recommendations for a person with a mental disease,
17 defect or disorder.

18 (c) If rendering an assessment of a person's safety in the
19 community, has education and training in and uses valid and reliable risk
20 assessment tools.

21 ~~13.~~ 10. "Risk assessment" means a comprehensive assessment of a
22 person's risk for violent behavior that is conducted by a qualified expert
23 and that includes all of the following:

24 (a) The person's identifying information.

25 (b) The reason for the risk assessment and a list of the records
26 reviewed, the sources of the information and any psychological tests or
27 risk assessment tools administered.

28 (c) A thorough history of the person's psychosocial development and
29 criminal history, including the index offense and any other history of
30 violence.

31 (d) A clinical assessment, including the person's mental health,
32 physical health and substance abuse history, the person's course of
33 treatment progress or regress, the person's understanding of the
34 committing offense, how the mental disease or defect contributed to the
35 person's violent behavior, the person's plans if granted conditional
36 release and a current mental status examination of the person.

37 (e) The person's progress and regress in treatment, including:

38 (i) Active management in treatment.

39 (ii) Medication compliance.

40 (iii) Meeting or exceeding treatment goals.

41 (iv) A history of rule violations.

42 (v) Compliance with conditions of release, if applicable.

43 (vi) Acceptance of having a mental illness and the need for
44 treatment.

1 (vii) The level of reliance on as needed medications to treat
2 symptoms of mental illness.

3 (f) An assessment of the person's risk for violence, including the
4 propensity to reoffend.

5 (g) Case formulation and recommendations, including the person's
6 relative risk for violence in the context of the proposed release
7 conditions, the identification of risk variables that require ongoing
8 management, any treatment recommendations, any recommended amendments to
9 conditional release and an opinion regarding when an updated risk
10 assessment might be warranted.

11 ~~14.~~ 11. "Secure mental health facility" means a secure state
12 mental health facility that is under the department of health services.

13 ~~15.~~ 12. "Stable remission" means a clinical state in which there
14 is an absence or marked attenuation in the signs and symptoms of major
15 mental illness.

16 ~~16.~~ 13. "Sufficient cause" means a reasonable belief that the
17 circumstance is true or necessary and is less than a preponderance.

18 ~~17.~~ 14. "Treatment supervisor" means a qualified expert who is a
19 person's supervising and treating clinician.

20 Sec. 11. Title 13, chapter 38, article 14, Arizona Revised
21 Statutes, is amended by adding a new section 13-3992, to read:

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

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. THE COURT SHALL NOTIFY THE MEDICAL
33 DIRECTOR OF THE SECURE MENTAL HEALTH FACILITY, THE VICTIM AND THE PARTIES
34 OF THE DATE OF THE HEARING. FOURTEEN DAYS BEFORE THE HEARING, THE MEDICAL
35 DIRECTOR OF THE SECURE MENTAL HEALTH FACILITY SHALL SUBMIT A MENTAL HEALTH
36 REPORT TO THE COURT AND THE REMAINING PARTIES ADDRESSING WHETHER THE
37 PERSON MEETS THE STANDARD FOR AND SHOULD BE SUBJECT TO INVOLUNTARY
38 HOSPITALIZATION PURSUANT TO TITLE 36, CHAPTER 5.

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 HAS A MENTAL DISEASE OR DEFECT OR THAT THE PERSON STILL
42 HAS A MENTAL DISEASE OR DEFECT AND IS NOT DANGEROUS, THE COURT SHALL ORDER
43 THE PERSON'S RELEASE AND THE PERSON'S COMMITMENT ORDERED PURSUANT TO
44 SECTION 13-502, SUBSECTION D TERMINATES.

1 2. IF THE COURT FINDS THAT THE PERSON STILL HAS A MENTAL DISEASE OR
2 DEFECT AND MAY PRESENT A THREAT OF DANGER TO SELF OR OTHERS OR HAS A
3 GRAVE, PERSISTENT OR ACUTE DISABILITY, THE COURT SHALL ORDER THE COUNTY
4 ATTORNEY TO INSTITUTE CIVIL COMMITMENT PROCEEDINGS PURSUANT TO TITLE 36,
5 CHAPTER 5 AND THE PERSON'S COMMITMENT ORDERED PURSUANT TO SECTION 13-502,
6 SUBSECTION D TERMINATES.

7 D. IF THE COURT FINDS THAT THE PERSON'S ACT CAUSED THE DEATH OF OR
8 SERIOUS PHYSICAL INJURY TO OR THE THREAT OF DEATH OR SERIOUS PHYSICAL
9 INJURY TO ANOTHER PERSON, THE COURT SHALL PLACE THE PERSON UNDER THE
10 JURISDICTION OF THE BOARD. THE COURT SHALL STATE THE BEGINNING DATE,
11 LENGTH AND ENDING DATE OF THE BOARD'S JURISDICTION OVER THE PERSON. THE
12 LENGTH OF JURISDICTION OVER THE PERSON IS EQUAL TO THE SENTENCE THE PERSON
13 COULD HAVE RECEIVED PURSUANT TO SECTION 13-707 OR SECTION 13-751,
14 SUBSECTION A OR THE PRESUMPTIVE SENTENCE THE PERSON COULD HAVE RECEIVED
15 PURSUANT TO SECTION 13-702, SUBSECTION D OR SECTION 13-703, 13-704 OR
16 13-705, SECTION 13-706, SUBSECTION A OR SECTION 13-710 OR 13-1406. IN
17 MAKING THIS DETERMINATION, THE COURT MAY NOT CONSIDER THE SENTENCE
18 ENHANCEMENTS FOR PRIOR CONVICTIONS UNDER SECTION 13-703 OR 13-704.

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

39 F. THE PARTIES SHALL PROVIDE THE BOARD AND THE SECURE MENTAL HEALTH
40 FACILITY WITH A COPY OF THE COURT'S COMMITMENT ORDER AND ALL DOCUMENTS
41 CONSIDERED BY THE COURT OR ADMITTED INTO EVIDENCE, INCLUDING ALL MEDICAL
42 AND MENTAL HEALTH REPORTS.

1 G. THE COURT SHALL RETAIN JURISDICTION OF ALL MATTERS THAT ARE NOT
2 SPECIFICALLY DELEGATED TO THE BOARD FOR THE DURATION OF THE BOARD'S
3 JURISDICTION OVER THE PERSON.

4 Sec. 12. Section 13-3992, Arizona Revised Statutes, as added by
5 section 11 of this act, is amended to read:

6 13-3992. Commitment hearing in superior court; jurisdiction;
7 census data collection; deferral

8 A. A person who is found guilty except insane pursuant to section
9 13-502 shall be committed to a secure mental health facility for a period
10 of treatment.

11 B. If the person's act did not cause the death or serious physical
12 injury of or the threat of death or serious physical injury to another
13 person, the court shall set a hearing within seventy-five days after the
14 person's commitment to determine if the person is entitled to release from
15 confinement or if the person meets the standards for civil commitment
16 pursuant to title 36, chapter 5. The court shall notify the medical
17 director of the secure mental health facility, the victim and the parties
18 of the date of the hearing. Fourteen days before the hearing, the medical
19 director of the secure mental health facility shall submit a mental health
20 report to the court and the remaining parties addressing whether the
21 person meets the standard for and should be subject to involuntary
22 hospitalization pursuant to title 36, chapter 5.

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

24 1. If the person proves by clear and convincing evidence that the
25 person no longer has a mental disease or defect or that the person still
26 has a mental disease or defect and is not dangerous, the court shall order
27 the person's release and the person's commitment ordered pursuant to
28 section 13-502, subsection D terminates.

29 2. If the court finds that the person still has a mental disease or
30 defect and may present a threat of danger to self or others or has a
31 grave, persistent or acute disability, the court shall order the county
32 attorney to institute civil commitment proceedings pursuant to title 36,
33 chapter 5 and the person's commitment ordered pursuant to section 13-502,
34 subsection D terminates.

35 D. If the court finds that the person's act caused the death of or
36 serious physical injury to or the threat of death or serious physical
37 injury to another person, the court shall ~~place the person under the~~
38 ~~jurisdiction of the board~~ RETAIN JURISDICTION OVER THE PERSON FOR THE
39 ENTIRETY OF THE COMMITMENT TERM. The court shall state the beginning
40 date, length and ending date of the ~~board's~~ COMMITMENT TERM AND THE
41 COURT'S jurisdiction over the person. The length of jurisdiction over the
42 person is equal to the sentence the person could have received pursuant to
43 section 13-707 or section 13-751, subsection A or the presumptive sentence
44 the person could have received pursuant to section 13-702, subsection D or
45 section 13-703, 13-704 or 13-705, section 13-706, subsection A or section

1 13-710 or 13-1406. In making this determination, the court may not
2 consider the sentence enhancements for prior convictions under section
3 13-703 or 13-704.

4 E. If a person is found guilty except insane pursuant to section
5 13-502, the department of health services shall assume custody of the
6 person within ten days after receiving the order committing the person
7 pursuant to subsection A of this section. The Arizona state hospital
8 shall collect census data for guilty except insane treatment programs to
9 establish maximum funded capacity and the allocation formula required
10 pursuant to section 36-206, subsection D. If the Arizona state hospital
11 reaches its maximum funded capacity for forensic programs, the department
12 of health services may defer the admission of the person found guilty
13 except insane for up to an additional twenty days. The department of
14 health services shall reimburse the county for the actual costs of each
15 day the admission is deferred. If the department of health services is
16 not able to admit the person found guilty except insane at the conclusion
17 of the twenty-day deferral period, the department of health services shall
18 notify the sentencing court, the prosecutor and the defense counsel of
19 this fact. On receipt of this notification, the prosecutor or the
20 person's defense counsel may request a hearing to determine the likely
21 length of time admission will continue to be deferred and whether any
22 other action should be taken. On receipt of the request for hearing, the
23 court shall set a hearing within ten days.

24 F. ~~The parties shall provide the board and~~ STATE AND THE DEFENDANT
25 SHALL PROVIDE the secure mental health facility with a copy of the court's
26 commitment order and all documents considered by the court or admitted
27 into evidence, including all medical and mental health reports.

28 ~~G. The court shall retain jurisdiction of all matter that are not~~
29 ~~specifically delegated to the board for the duration of the board's~~
30 ~~jurisdiction over the person.~~

31 Sec. 13. Section 13-3993, Arizona Revised Statutes, is amended to
32 read:

33 13-3993. Examination of defendant by qualified experts;
34 privilege inapplicability; sealed reports

35 ~~A. In any criminal prosecution in which the defendant has declared~~
36 ~~the defendant's intent to invoke an insanity defense, on a showing of~~
37 ~~unequal resources the state shall have the right to nominate and have~~
38 ~~appointed for examination of the defendant to determine the defendant's~~
39 ~~mental state the same number of medical doctors and licensed psychologists~~
40 ~~that will testify on behalf of the defense.~~

41 A. ON REQUEST OF THE COURT OR ANY PARTY, WITH THE CONSENT OF THE
42 DEFENDANT AND AFTER A DETERMINATION THAT A REASONABLE BASIS EXISTS TO
43 SUPPORT THE GUILTY EXCEPT INSANE DEFENSE, THE COURT SHALL APPOINT A
44 QUALIFIED EXPERT TO EVALUATE THE DEFENDANT AND PROVIDE A WRITTEN REPORT
45 THAT INCLUDES:

1 1. THE MENTAL STATUS OF THE DEFENDANT AT THE TIME OF THE ALLEGED
2 OFFENSE.

3 2. IF THE QUALIFIED EXPERT DETERMINES THAT THE DEFENDANT SUFFERED
4 FROM A MENTAL DISEASE OR DEFECT AT THE TIME OF THE ALLEGED OFFENSE, THE
5 RELATIONSHIP OF THE MENTAL DISEASE OR DEFECT TO THE ALLEGED OFFENSE.

6 B. WITHIN TEN DAYS AFTER APPOINTMENT OF THE QUALIFIED EXPERT, THE
7 PARTIES SHALL PROVIDE ALL AVAILABLE MEDICAL RECORDS, MENTAL HEALTH REPORTS
8 AND CRIMINAL HISTORY RECORDS TO THE QUALIFIED EXPERT. ON NOTICE TO THE
9 COURT, THE QUALIFIED EXPERT MAY REQUEST ADDITIONAL RECORDS FROM THE
10 PARTIES.

11 C. IF THE DEFENDANT PROVIDES A NOTICE OF A GUILTY EXCEPT INSANE
12 DEFENSE, THE DEFENSE ATTORNEY SHALL NOMINATE ITS OWN QUALIFIED EXPERT TO
13 EXAMINE THE DEFENDANT TO DETERMINE THE DEFENDANT'S MENTAL STATUS AT THE
14 TIME OF THE ALLEGED OFFENSE. THE STATE MAY CALL THE SAME NUMBER OF
15 MEDICAL DOCTORS AND LICENSED PSYCHOLOGISTS WHO WILL TESTIFY ON BEHALF OF
16 THE DEFENSE.

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

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

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

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

34 1. FOR USE BY THE COURT OR DEFENDANT, OR BY THE PROSECUTOR IF
35 OTHERWISE ALLOWED BY LAW, FOR FURTHER COMPETENCY OR SANITY EVALUATIONS OR
36 IN A HEARING TO DETERMINE WHETHER THE DEFENDANT IS ELIGIBLE FOR
37 COURT-ORDERED TREATMENT PURSUANT TO TITLE 36, CHAPTER 5 OR IS A SEXUALLY
38 VIOLENT PERSON.

39 2. FOR STATISTICAL ANALYSIS.

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

42 4. FOR USE BY THE PROBATION DEPARTMENT OR BY THE STATE DEPARTMENT
43 OF CORRECTIONS IF THE DEFENDANT IS IN THE CUSTODY OF OR IS SCHEDULED TO BE
44 TRANSFERRED INTO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS TO
45 ASSESS AND SUPERVISE OR MONITOR THE DEFENDANT BY THAT DEPARTMENT.

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

3 6. FOR DATA GATHERING.

4 7. FOR SCIENTIFIC STUDY.

5 H. ANY STATEMENT THAT IS MADE BY THE DEFENDANT DURING AN
6 EXAMINATION THAT IS CONDUCTED PURSUANT TO THIS ARTICLE OR ANY EVIDENCE
7 RESULTING FROM THAT STATEMENT IS NOT SUBJECT TO DISCLOSURE PURSUANT TO
8 SECTION 36-509.

9 Sec. 14. Section 13-3994, Arizona Revised Statutes, is amended to
10 read:

11 13-3994. Persons under the jurisdiction of the psychiatric
12 security review board; hearing; mental health
13 report; risk assessment; conditional release;
14 board notices and decisions

15 ~~A. A person who is found guilty except insane pursuant to section~~
16 ~~13-502 shall be committed to a secure state mental health facility under~~
17 ~~the department of health services for a period of treatment.~~

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

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

31 ~~1. If the person proves by clear and convincing evidence that the~~
32 ~~person no longer suffers from a mental disease or defect and is not~~
33 ~~dangerous, the court shall order the person's release and the person's~~
34 ~~commitment ordered pursuant to section 13-502, subsection D shall~~
35 ~~terminate. Before determining to release a person pursuant to this~~
36 ~~paragraph, the court shall consider the entire criminal history of the~~
37 ~~person and shall not order the person's release if the court determines~~
38 ~~that the person has a propensity to reoffend.~~

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

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

17 ~~E. A. A person who is placed under the jurisdiction of the~~
18 ~~psychiatric security review board pursuant to subsection D of this section~~
19 ~~is not eligible for discharge from the board's jurisdiction until THE DATE~~
20 ~~THAT the board's jurisdiction over the person expires AS SET BY THE~~
21 ~~COMMITTING COURT OR THE PERSON'S CASE IS TRANSFERRED BACK TO THE SUPERIOR~~
22 ~~COURT.~~

23 ~~F. B. THE BOARD MAY SET A HEARING PURSUANT TO SECTION 13-3995. AN~~
24 ~~OUTPATIENT TREATMENT SUPERVISOR MAY REQUEST A HEARING PURSUANT TO SECTION~~
25 ~~13-3996. A person who is placed under the jurisdiction of the psychiatric~~
26 ~~security review board pursuant to subsection D of this section is not~~
27 ~~entitled to a hearing before the board earlier than one hundred twenty~~
28 ~~days after the person's initial commitment. A request for a subsequent~~
29 ~~release hearing may be made pursuant to subsection H of this section MAY~~
30 ~~REQUEST A HEARING PURSUANT TO SECTION 13-3997. After the hearing, the~~
31 ~~board may take one of the following actions:~~

32 1. If the ~~psychiatric security review~~ board finds that the person
33 still ~~suffers from~~ HAS a mental disease or defect and is dangerous, the
34 board shall order that the person remain committed at the secure ~~state~~
35 mental health facility.

36 2. If the ~~person proves by clear and convincing evidence~~ BOARD
37 FINDS that the person no longer ~~suffers from~~ NEEDS ONGOING TREATMENT FOR a
38 mental disease or defect and is not dangerous, the ~~psychiatric security~~
39 ~~review~~ board shall order the person's ~~release~~ TRANSFER TO THE SUPERIOR
40 COURT PURSUANT TO SECTION 13-4001 FOR EITHER A JUDICIAL REVIEW OR
41 PLACEMENT ON SUPERVISED PROBATION FOR THE REMAINDER OF THE COMMITMENT TERM
42 IMPOSED PURSUANT TO SECTION 13-502, SUBSECTION D, OR BOTH. ~~The person~~
43 ~~shall remain under the jurisdiction of the board.~~ Before determining to
44 ~~release~~ TRANSFER a person pursuant to this paragraph, the board shall
45 consider the entire criminal history of the person. ~~and shall not order~~

1 ~~the person's release if the board determines that the person has a~~
2 ~~propensity to reoffend.~~ THE BOARD'S JURISDICTION OVER THE PERSON
3 TERMINATES WHEN THE PERSON IS TRANSFERRED TO THE SUPERIOR COURT.

4 3. If the ~~psychiatric security review~~ board finds that the person
5 still ~~suffers from~~ HAS a mental disease or defect or that the mental
6 disease or defect is in stable remission but the person is no longer
7 dangerous, the board shall order the person's conditional release. The
8 person shall remain under the board's jurisdiction. ~~The board in~~
9 ~~conjunction with the state mental health facility and behavioral health~~
10 ~~community providers shall specify the conditions of the person's release.~~
11 ~~The board shall continue to monitor and supervise a person who is released~~
12 ~~conditionally. Before the conditional release of a person, a supervised~~
13 ~~treatment plan shall be in place, including the necessary funding to~~
14 ~~implement the plan.~~

15 4. If the person is sentenced pursuant to section 13-704, section
16 13-710 or section 13-751, subsection A and the ~~psychiatric security review~~
17 board finds that the person no longer needs ongoing treatment for a mental
18 disease OR DEFECT and the person is dangerous ~~or has a propensity to~~
19 ~~reoffend~~, the board shall order the person to be transferred to the ~~state~~
20 ~~department of corrections for the remainder of the sentence imposed~~
21 ~~pursuant to section 13-502, subsection B~~ SUPERIOR COURT FOR THE IMPOSITION
22 OF A SENTENCE OR A JUDICIAL REVIEW PURSUANT TO SECTION 13-4001, OR BOTH.
23 The board shall consider the safety and protection of the public.

24 C. A PERSON WHO IS CONDITIONALLY RELEASED IS SUBJECT TO ALL OF THE
25 FOLLOWING:

26 1. THE BOARD IN CONJUNCTION WITH THE SECURE MENTAL HEALTH FACILITY
27 AND SUPERVISORS FROM BEHAVIORAL HEALTH COMMUNITY PROVIDERS SHALL AGREE ON
28 AND SPECIFY THE CONDITIONS OF THE PERSON'S RELEASE. THE BOARD SHALL
29 MONITOR THE PERSON ON CONDITIONAL RELEASE.

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

32 3. THE BOARD MAY IMPLEMENT THE PERSON'S CONDITIONAL RELEASE IN
33 INCREMENTAL STEPS BEGINNING WITH SUPERVISED PASSES INTO THE COMMUNITY FOR
34 INCREASING LENGTHS OF TIME, CONTINUING THROUGH INDEPENDENT PASSES AND
35 ENDING WITH RELEASE TO LIVE IN THE COMMUNITY. BEFORE IMPLEMENTING EACH
36 STAGE OF CONDITIONAL RELEASE, THE BOARD MUST FIND BY CLEAR AND CONVINCING
37 EVIDENCE THAT THE COMMUNITY WILL BE PROTECTED AND THE PERSON WILL BE SAFE
38 UNDER THE PROPOSED SUPERVISED TREATMENT PLAN.

39 4. IF APPROVED BY THE BOARD, PASS SUPERVISORS MAY INCLUDE MEMBERS
40 OF THE INPATIENT OR OUTPATIENT TREATMENT TEAM, OTHER MENTAL HEALTH
41 TREATMENT PROVIDERS OR OTHER RESPONSIBLE PERSONS WHO ARE WILLING TO ENSURE
42 THAT THE PERSON ABIDES BY THE CONDITIONAL RELEASE TERMS.

43 5. THE SECURE MENTAL HEALTH FACILITY SHALL IMPLEMENT THE BOARD'S
44 CONDITIONAL RELEASE ORDER OR IMMEDIATELY REQUEST A HEARING PURSUANT TO

1 SECTION 13-3996 TO EXPLAIN WHY THE ORDER HAS NOT BEEN IMPLEMENTED AND
2 PROPOSE A REVISED ORDER.

3 ~~G. Within twenty days after the psychiatric security review board~~
4 ~~orders a person to be transferred to the state department of corrections,~~
5 ~~the person may file a petition for a judicial determination. The person~~
6 ~~shall serve a copy of the request on the attorney general. If the person~~
7 ~~files a petition for a judicial determination, the person shall remain in~~
8 ~~a state mental health facility pending the result of the judicial~~
9 ~~determination. The person requesting the judicial determination has the~~
10 ~~burden of proving the issues by clear and convincing evidence. The~~
11 ~~judicial determination is limited to the following issues:~~

12 ~~1. Whether the person no longer needs ongoing treatment for a~~
13 ~~mental disease.~~

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

15 ~~H. A person who is placed under the jurisdiction of the psychiatric~~
16 ~~security review board pursuant to subsection D of this section may not~~
17 ~~seek a new release hearing earlier than twenty months after a prior~~
18 ~~release hearing, except that the medical director of the state mental~~
19 ~~health facility may request a new release hearing for a person under the~~
20 ~~jurisdiction of the psychiatric security review board at any time. The~~
21 ~~person shall not be held in confinement for more than two years without a~~
22 ~~hearing before the board to determine if the person should be released or~~
23 ~~conditionally released.~~

24 ~~i. D. At any BOARD hearing for release or conditional release~~
25 ~~pursuant to this section:~~

26 1. Public safety and protection are primary.

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

30 ~~j. At least fifteen days before a hearing is scheduled to consider~~
31 ~~a person's release, or before the expiration of the board's jurisdiction~~
32 ~~over the person, the state mental health facility or supervising agency~~
33 ~~shall submit to the psychiatric security review board a report on the~~
34 ~~person's mental health. The psychiatric security review board shall~~
35 ~~determine whether to release the person or to order the county attorney to~~
36 ~~institute civil commitment proceedings pursuant to title 36.~~

37 ~~k. The procedures for civil commitment govern the continued~~
38 ~~commitment of the person after the expiration of the jurisdiction of the~~
39 ~~psychiatric security review board.~~

40 ~~l. Before a person is released or conditionally released, at least~~
41 ~~three of the five psychiatric security review board members shall vote for~~
42 ~~the release or conditional release.~~

43 ~~m. If at any time while the person remains under the jurisdiction~~
44 ~~of the psychiatric security review board it appears to the board, the~~
45 ~~chairman or vice-chairman of the board or the medical director of the~~

1 ~~state mental health facility that the person has failed to comply with the~~
2 ~~terms of the person's conditional release or that the mental health of the~~
3 ~~person has deteriorated, the board or the chairman or vice-chairman of the~~
4 ~~board for good cause or the medical director of the state mental health~~
5 ~~facility may order that the person be returned to a secure state mental~~
6 ~~health facility for evaluation or treatment. A written order of the~~
7 ~~board, the chairman or vice-chairman of the board or the medical director~~
8 ~~is sufficient warrant for any law enforcement officer to take the person~~
9 ~~into custody and to transport the person accordingly. Any sheriff or~~
10 ~~other peace officer shall execute the order and shall immediately notify~~
11 ~~the board of the person's return to the facility. Within twenty days~~
12 ~~after the person's return to a secure state mental health facility the~~
13 ~~board shall conduct a hearing and shall give notice within five days~~
14 ~~before the hearing of the time and place of the hearing to the person, the~~
15 ~~victim, the attorney representing the person, the county attorney and the~~
16 ~~attorney general.~~

17 ~~N. The director of a facility that is providing treatment to a~~
18 ~~person on conditional release or any other person who is responsible for~~
19 ~~the supervision of the person may take the person or request that the~~
20 ~~person be taken into custody if there is reasonable cause to believe that~~
21 ~~the person's mental health has deteriorated to the point that the person's~~
22 ~~conditional release should be revoked and that the person is in need of~~
23 ~~immediate care, custody or treatment or that deterioration is likely~~
24 ~~because of noncompliance with a treatment program. A person who is taken~~
25 ~~into custody pursuant to this subsection shall be transported immediately~~
26 ~~to a secure state mental health facility and shall have the same rights as~~
27 ~~any person appearing before the psychiatric security review board.~~

28 ~~O. Before the initial hearing or any other hearing before the~~
29 ~~psychiatric security review board on the release or conditional release of~~
30 ~~the person, the person, the attorney who is representing the person and~~
31 ~~the attorney general or county attorney who is representing the state may~~
32 ~~choose a psychiatrist licensed pursuant to title 32, chapter 13 or 17 or a~~
33 ~~psychologist licensed pursuant to title 32, chapter 19.1 to examine the~~
34 ~~person. All costs in connection with the examination shall be approved~~
35 ~~and paid by the county of the sentencing court. The written examination~~
36 ~~results shall be filed with the board and shall include an opinion as to:~~

- 37 ~~1. The mental condition of the person.~~
- 38 ~~2. Whether the person is dangerous.~~

39 ~~P. Notwithstanding subsection O of this section, the board or the~~
40 ~~chairman of the board for good cause may order an independent mental~~
41 ~~health evaluation by a psychiatrist licensed pursuant to title 32, chapter~~
42 ~~13 or 17 or a psychologist licensed pursuant to title 32, chapter 19.1.~~
43 ~~The written examination results shall be filed with the board pursuant to~~
44 ~~subsection O of this section.~~

1 ~~Q. If a person is found guilty except insane pursuant to section~~
2 ~~13-502, the department of health services shall assume custody of the~~
3 ~~person within ten days after receiving the order committing the person~~
4 ~~pursuant to subsection A of this section. The Arizona state hospital~~
5 ~~shall collect census data for guilty except insane treatment programs to~~
6 ~~establish maximum capacity and the allocation formula required pursuant to~~
7 ~~section 36-206, subsection D. If the Arizona state hospital reaches its~~
8 ~~funded capacity for forensic programs, the department of health services~~
9 ~~may defer the admission of the person found guilty except insane for up to~~
10 ~~an additional twenty days. The department of health services shall~~
11 ~~reimburse the county for the actual costs of each day the admission is~~
12 ~~deferred. If the department of health services is not able to admit the~~
13 ~~person found guilty except insane at the conclusion of the twenty day~~
14 ~~deferral period, the department of health services shall notify the~~
15 ~~sentencing court, the prosecutor and the defense counsel of this fact. On~~
16 ~~receipt of this notification, the prosecutor or the person's defense~~
17 ~~counsel may request a hearing to determine the likely length of time~~
18 ~~admission will continue to be deferred and whether any other action should~~
19 ~~be taken. On receipt of the request for hearing, the court shall set a~~
20 ~~hearing within ten days.~~

21 ~~R. For the purposes of this section, "state mental health facility"~~
22 ~~means a secure state mental health facility under the department of health~~
23 ~~services.~~

24 E. UNLESS OTHERWISE PROVIDED IN THIS SECTION OR ON A SHOWING OF
25 SUFFICIENT CAUSE, A PARTY OR TREATMENT SUPERVISOR SHALL SUBMIT A REQUEST
26 FOR A HEARING TO THE BOARD AT LEAST FORTY-FIVE DAYS BEFORE THE REQUESTED
27 HEARING DATE AND SHALL INCLUDE THE REASONS FOR THE REQUEST. THE
28 REQUESTING PARTY SHALL PROVIDE THE BOARD, THE TREATMENT SUPERVISOR, IF THE
29 REQUEST IS NOT MADE BY THE TREATMENT SUPERVISOR, AND ALL OTHER PARTIES
30 WITH A COPY OF THE HEARING REQUEST.

31 F. THE CHAIRPERSON OR VICE CHAIRPERSON OF THE BOARD SHALL PROVIDE
32 WRITTEN NOTICE OF THE HEARING OR A DENIED REQUEST FOR A HEARING TO ALL
33 PARTIES AND THE PERSON'S TREATMENT SUPERVISOR WITHIN THREE DAYS AFTER
34 RECEIVING A REQUEST FOR THE HEARING. THE BOARD MAY INCLUDE WITH THE
35 NOTICE A REQUEST FOR A MENTAL HEALTH REPORT, AN UPDATED RISK ASSESSMENT
36 REPORT AND SPECIFIC RECORDS FROM THE PERSON'S MEDICAL RECORD OR TESTIMONY
37 FROM A SPECIFIC MEMBER OF THE PERSON'S TREATMENT TEAM. THIS SUBSECTION
38 DOES NOT PROHIBIT THE BOARD FROM ISSUING A SUBPOENA PURSUANT TO SECTION
39 41-1092.07.

40 G. IN ADDITION TO TESTIMONY AT ANY HEARING, THE BOARD MAY CONSIDER
41 ONLY REPORTS, DOCUMENTS, WRITTEN STATEMENTS AND MATERIALS THAT ARE
42 SUBMITTED TO THE BOARD, THE TREATMENT SUPERVISOR AND THE PARTIES AT LEAST
43 FORTY-FIVE DAYS BEFORE THE DATE OF THE HEARING. A WITNESS MUST BE
44 NOTIFIED AT LEAST FOURTEEN DAYS BEFORE THE DATE OF THE HEARING. THE BOARD

1 MAY GRANT A REQUEST TO CONTINUE A HEARING IN ORDER TO COMPLY WITH THIS
2 SUBSECTION.

3 H. THE BOARD'S DECISION IS EFFECTIVE ON ISSUANCE OF THE BOARD'S
4 WRITTEN DECISION. THE BOARD SHALL ISSUE A WRITTEN DECISION TO ALL
5 PARTIES, ANY VICTIM AND THE COMMITTING COURT WITHIN SEVEN DAYS AFTER THE
6 CONCLUSION OF THE HEARING. THE WRITTEN DECISION SHALL CONTAIN A SUMMARY
7 OF THE EVIDENCE THAT THE BOARD FOUND TO BE CREDIBLE AND ANY EVIDENCE THAT
8 THE BOARD FOUND UNPERSUASIVE, SPECIFIC SEPARATELY STATED FINDINGS OF FACT
9 AND CONCLUSIONS OF LAW AND INFORMATION ON THE PERSON'S RIGHT TO APPEAL
10 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. THE FINDINGS OF FACT SHALL
11 INCLUDE A CONCISE AND EXPLICIT STATEMENT OF THE UNDERLYING FACTS THAT
12 SUPPORT THE FINDINGS. ANY PORTION OF THE BOARD'S ORDER THAT CONTAINS
13 PERSONAL IDENTIFYING INFORMATION ABOUT THE PATIENT, TREATMENT SUPERVISOR
14 OR PASS SUPERVISOR SHALL BE MAINTAINED IN A SEPARATE CONFIDENTIAL SECTION
15 AND MAY NOT BE DISCLOSED TO THE PUBLIC OR TO A VICTIM. FOR THE PURPOSES
16 OF THIS SUBSECTION, "PERSONAL IDENTIFYING INFORMATION" INCLUDES A PERSON'S
17 DATE OF BIRTH, SOCIAL SECURITY NUMBER, PHONE NUMBER AND ADDRESS AND
18 EMPLOYER INFORMATION.

19 I. ON THE REQUEST OF ANY PARTY, THE BOARD SHALL GRANT A REASONABLE
20 REQUEST FOR A HEARING OR A CONTINUANCE FOR A PREVIOUSLY SCHEDULED HEARING.
21 A REQUEST FOR A HEARING OR A CONTINUANCE FOR A PREVIOUSLY SCHEDULED
22 HEARING MAY BE RULED ON BY THE CHAIRPERSON OR VICE CHAIRPERSON. IF THE
23 REQUEST FOR A HEARING OR A CONTINUANCE IS DENIED, THE MOVING PARTY MAY
24 REQUEST THAT THE FULL BOARD RECONSIDER THE REQUEST AT THE NEXT SCHEDULED
25 BOARD MEETING.

26 Sec. 15. Section 13-3994, Arizona Revised Statutes, as amended by
27 section 14 of this act, is amended to read:

28 13-3994. Persons under the jurisdiction of the superior
29 court; hearing; mental health report; risk
30 assessment; conditional release; hearings and
31 decisions

32 A. A person who is placed under the jurisdiction of the ~~board~~
33 SUPERIOR COURT pursuant to this section is not eligible for discharge from
34 the ~~board's~~ jurisdiction until the date ~~that the board's jurisdiction over~~
35 ~~the person expires as~~ set by the committing court ~~or the person's case is~~
36 ~~transferred back to the superior court.~~

37 B. ~~The board~~ A SECURE MENTAL HEALTH FACILITY may ~~set~~ REQUEST a
38 hearing pursuant to section 13-3995. An outpatient treatment supervisor
39 may request a hearing pursuant to section 13-3996. A person who is placed
40 under the jurisdiction of the ~~board~~ SUPERIOR COURT may request a hearing
41 pursuant to section 13-3997. THE PERSON MAY ATTEND ANY HEARING BY VIDEO
42 CONFERENCE FROM THE SECURE MENTAL HEALTH FACILITY. After the hearing, the
43 ~~board~~ COURT may take one of the following actions:

1 1. If the ~~board~~ COURT finds that the person still has a mental
2 disease or defect and is dangerous, the ~~board~~ COURT shall order that the
3 person remain committed at the secure mental health facility.

4 2. If the ~~board~~ COURT finds that the person no longer needs ongoing
5 treatment for a mental disease or defect and is not dangerous, the ~~board~~
6 COURT shall ~~order PLACE the person's transfer to the superior court~~
7 ~~pursuant to section 13-4001 for either a judicial review or placement~~
8 PERSON on supervised probation for the remainder of the commitment term
9 imposed pursuant to section 13-502, subsection D, ~~or both. Before~~
10 ~~determining to transfer a person pursuant to this paragraph, the board~~
11 ~~shall consider the entire criminal history of the person. The board's~~
12 ~~jurisdiction over the person terminates when the person is transferred to~~
13 ~~the superior court.~~

14 3. If the ~~board~~ COURT finds that the person still has a mental
15 disease or defect or that the mental disease or defect is in stable
16 remission but the person is no longer dangerous, the ~~board~~ COURT shall
17 order the person's conditional release. The person shall remain under the
18 ~~board's~~ COURT'S jurisdiction.

19 4. If the person ~~is~~ ~~COULD HAVE BEEN~~ sentenced pursuant to section
20 13-704, section 13-710 or section 13-751, subsection A and the ~~board~~ COURT
21 finds that the person no longer needs ongoing treatment for a mental
22 disease or defect and the person is dangerous, the ~~board~~ COURT shall
23 IMPOSE THE SENTENCE AND order the person to be transferred to the ~~superior~~
24 ~~court~~ STATE DEPARTMENT OF CORRECTIONS for the ~~imposition of a sentence or~~
25 ~~a judicial review pursuant to section 13-4001, or both. The board shall~~
26 ~~consider the safety and protection of the public~~ REMAINDER OF THE
27 COMMITMENT TERM. ALL TIME SPENT UNDER THE COURT'S JURISDICTION AND ANY
28 TIME SPENT COMMITTED PURSUANT TO THIS SECTION SHALL BE CREDITED AGAINST
29 ANY SENTENCE IMPOSED.

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

33 ~~C.~~ D. A person who is conditionally released is subject to all of
34 the following:

35 1. The ~~board~~ COURT in conjunction with the secure mental health
36 facility and supervisors from behavioral health community providers shall
37 agree on and specify the conditions of the person's release. The ~~board~~
38 OUTPATIENT PROVIDER THAT IS SPECIFIED IN THE CONDITIONAL RELEASE PLAN
39 shall monitor the person on conditional release AND NOTIFY THE COURT AND
40 THE SECURE MENTAL HEALTH FACILITY IF THERE IS A CHANGE IN THE PERSON'S
41 CONDITION.

42 2. Before the person is conditionally released, a supervised
43 treatment plan must be in place.

44 3. The ~~board~~ COURT may implement the person's conditional release
45 in incremental steps beginning with supervised passes into the community

1 for increasing lengths of time, continuing through independent passes and
2 ending with release to live in the community. Before implementing each
3 stage of conditional release, the ~~board~~ COURT must find by clear and
4 convincing evidence that the community will be protected and the person
5 will be safe under the proposed supervised treatment plan.

6 4. If approved by the ~~board~~ COURT, pass supervisors may include
7 members of the inpatient or outpatient treatment team, other mental health
8 treatment providers or other responsible persons who are willing to ensure
9 that the person abides by the conditional release terms.

10 5. The secure mental health facility shall implement the ~~board's~~
11 COURT'S conditional release order or immediately request a hearing
12 pursuant to section 13-3996 to explain why the order has not been
13 implemented and propose a revised order.

14 ~~D.~~ E. At any ~~board~~ hearing for release or conditional release:

15 1. Public safety and protection are primary.

16 2. The party or treatment supervisor who is seeking a change in
17 privileges or a change in hospitalization has the burden of proof by clear
18 and convincing evidence.

19 ~~E.~~ F. Unless otherwise provided in this section or on a showing of
20 sufficient cause, a party or treatment supervisor shall submit a request
21 for a hearing to the board PURSUANT TO SECTION 13-3995, 13-3996 OR 13-3997
22 at least forty-five days before the requested hearing date and shall
23 include the reasons for the request. The requesting party shall provide
24 the ~~board~~ COURT, the treatment supervisor, if the request is not made by
25 the treatment supervisor, and all other parties with a copy of the hearing
26 request. WHEN A HEARING IS SET, THE COURT SHALL ORDER THE TREATMENT
27 SUPERVISOR TO SUBMIT A MENTAL HEALTH REPORT.

28 ~~F.~~ The chairperson or vice chairperson of the board shall provide
29 written notice of the hearing or a denied request for a hearing to all
30 parties and the person's treatment supervisor within three days after
31 receiving a request for the hearing. The board may include with the
32 notice a request for a mental health report, an updated risk assessment
33 report and specific records from the person's medical record or testimony
34 from a specific member of the person's treatment team. This subsection
35 does not prohibit the board from issuing a subpoena pursuant to section
36 41-1092.07.

37 ~~G.~~ In addition to testimony at any hearing, the board may consider
38 only reports, documents, written statements and materials that are
39 submitted to the board, the treatment supervisor and the parties at least
40 forty-five days before the date of the hearing. A witness must be
41 notified at least fourteen days before the date of the hearing. The board
42 may grant a request to continue a hearing in order to comply with this
43 subsection.

44 ~~H.~~ G. The ~~board's~~ COURT'S decision is effective on issuance of the
45 ~~board's~~ written decision ORAL PRONOUNCEMENT. The board shall issue a

1 ~~written decision to all parties, any victim and the committing court~~
2 ~~within seven days after the conclusion of the hearing. The written~~
3 ~~decision shall contain a summary of the evidence that the board found to~~
4 ~~be credible and any evidence that the board found unpersuasive, specific~~
5 ~~separately stated findings of fact and conclusions of law and information~~
6 ~~on the person's right to appeal pursuant to title 12, chapter 7, article~~
7 ~~6. The findings of fact shall include a concise and explicit statement of~~
8 ~~the underlying facts that support the findings.~~ Any portion of the
9 ~~board's~~ COURT'S order that contains personal identifying information about
10 the patient, treatment supervisor or pass supervisor shall be ~~maintained~~
11 ~~in a separate confidential section~~ SEALED BY THE COURT and may not be
12 disclosed to the public or to a victim. For the purposes of this
13 subsection, "personal identifying information" includes a person's date of
14 birth, social security number, phone number and address and employer
15 information.

16 ~~i. On the request of any party, the board shall grant a reasonable~~
17 ~~request for a hearing or a continuance for a previously scheduled hearing.~~
18 ~~A request for a hearing or a continuance for a previously scheduled~~
19 ~~hearing may be ruled on by the chairperson or vice chairperson. If the~~
20 ~~request for a hearing or a continuance is denied, the moving party may~~
21 ~~request that the full board reconsider the request at the next scheduled~~
22 ~~board meeting.~~

23 Sec. 16. Title 13, chapter 38, article 14, Arizona Revised
24 Statutes, is amended by adding section 13-3995, to read:

25 13-3995. Hearing on motion of the psychiatric security review
26 board; expedited hearing; return to
27 hospitalization

28 A. THE PSYCHIATRIC SECURITY REVIEW BOARD, ON THE BOARD'S OWN
29 MOTION, MAY SET A HEARING TO MONITOR A PERSON'S PROGRESS AFTER GIVING AT
30 LEAST SIXTY DAYS' NOTICE TO THE PARTIES AND THE TREATMENT SUPERVISOR. THE
31 BOARD MAY ORDER THE PERSON'S TREATMENT SUPERVISOR TO PROVIDE A MENTAL
32 HEALTH REPORT TO THE BOARD AND THE PARTIES WITHIN THIRTY DAYS AFTER
33 PROVIDING THE NOTICE OF THE HEARING.

34 B. IF SUFFICIENT CAUSE EXISTS, THE BOARD MAY SET AN EXPEDITED
35 HEARING TO MONITOR A PERSON'S PROGRESS OR MENTAL HEALTH. THE BOARD MUST
36 INCLUDE IN THE NOTICE OF HEARING THE SPECIFIC REASONS FOR THE EXPEDITED
37 HEARING AND ATTACH ALL DOCUMENTS AND EVIDENCE THAT SUPPORT THE NEED FOR
38 THE HEARING, INCLUDING ANY OF THE BOARD'S CONCERNS THAT NEED TO BE
39 ADDRESSED BY THE PARTIES OR THE TREATMENT SUPERVISOR. THE BOARD MAY ORDER
40 AN EXPEDITED MENTAL HEALTH REPORT FROM THE PERSON'S TREATMENT SUPERVISOR.

41 C. IF A PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY AND THE
42 BOARD RECEIVES A RELIABLE REPORT THAT THE PERSON HAS VIOLATED THE BOARD'S
43 CONDITIONAL RELEASE ORDER OR THAT THE PERSON'S MENTAL HEALTH HAS
44 DETERIORATED, THE CHAIRPERSON OR VICE CHAIRPERSON OF THE BOARD MAY ORDER
45 THE PERSON'S RETURN TO HOSPITALIZATION. BEFORE ORDERING A PERSON'S RETURN

1 TO HOSPITALIZATION, THE CHAIRPERSON OR VICE CHAIRPERSON SHALL CONSULT WITH
2 THE TREATMENT SUPERVISOR OR THE SUPERVISOR'S DESIGNEE TO DETERMINE IF
3 REHOSPITALIZATION IS NECESSARY TO PROTECT THE SAFETY OF THE PUBLIC OR THE
4 PERSON. WITH SUFFICIENT CAUSE, THE CHAIRPERSON OR VICE CHAIRPERSON MAY
5 WAIVE THE REQUIREMENT TO CONSULT WITH THE TREATMENT SUPERVISOR OR THE
6 SUPERVISOR'S DESIGNEE AND MAY ISSUE THE RETURN ORDER IMMEDIATELY. IF THE
7 RETURN ORDER IS ISSUED BEFORE A CONSULTATION OCCURS, THE CHAIRPERSON OR
8 VICE CHAIRPERSON SHALL CONSULT WITH THE TREATMENT SUPERVISOR OR THE
9 TREATMENT SUPERVISOR'S DESIGNEE AS SOON AS POSSIBLE AFTER THE ORDER IS
10 ISSUED. THE BOARD MUST SET A HEARING PURSUANT TO SECTION 13-3998.

11 D. WHETHER ON THE BOARD'S MOTION OR ON MOTION OF THE PERSON OR
12 TREATMENT SUPERVISOR, THE BOARD MUST HOLD A HEARING FOR EACH PERSON UNDER
13 THE BOARD'S JURISDICTION AT LEAST ONCE EVERY TWENTY-FOUR MONTHS.

14 Sec. 17. Section 13-3995, Arizona Revised Statutes, as added by
15 section 16 of this act, is amended to read:

16 13-3995. Hearing on motion of the secure mental health
17 facility; expedited hearing; return to
18 hospitalization

19 A. ~~The psychiatric security review board, on the board's own~~
20 ~~motion, may set~~ ON THE REQUEST OF THE SECURE MENTAL HEALTH FACILITY, THE
21 COURT SHALL GRANT a hearing to monitor a person's progress ~~after giving at~~
22 ~~least sixty days' notice to the parties and the treatment supervisor~~ ON
23 CONDITIONAL RELEASE. THE SECURE MENTAL HEALTH FACILITY SHALL INCLUDE IN
24 THE REQUEST THE SPECIFIC REASONS FOR REQUESTING THE HEARING AND ANY
25 RECORDS, UNDER SEAL, OF COMMUNICATIONS AND REPORTS THAT SUPPORT THE NEED
26 FOR THE HEARING. ~~The board may~~ ON THE REQUEST OF THE PERSON OR THE SECURE
27 MENTAL HEALTH FACILITY, THE COURT SHALL order the person's OUTPATIENT
28 treatment supervisor to provide a mental health report to the ~~board~~ COURT
29 and the parties ~~within thirty~~ NOT LATER THAN FOURTEEN days ~~after providing~~
30 ~~the notice of~~ BEFORE the hearing.

31 B. If sufficient cause exists, THE SECURE MENTAL HEALTH FACILITY
32 MAY REQUEST AN EXPEDITED HEARING. IF REQUESTED, the ~~board may~~ COURT SHALL
33 set an expedited hearing to monitor a person's progress or mental health.
34 The ~~board~~ SECURE MENTAL HEALTH FACILITY must include in the ~~notice of~~
35 REQUEST FOR THE hearing the specific reasons for the expedited hearing and
36 ~~attach all documents and evidence~~ INCLUDE RECORDS, UNDER SEAL, OF ALL
37 COMMUNICATIONS AND REPORTS that support the need for the EXPEDITED
38 hearing, ~~including any of the board's concerns that need to be addressed~~
39 ~~by the parties or the treatment supervisor~~. The ~~board~~ COURT may order an
40 expedited mental health report from the person's OUTPATIENT treatment
41 supervisor.

42 C. If a person is conditionally released to the community and the
43 ~~board receives a reliable report~~ SECURE MENTAL HEALTH FACILITY HAS REASON
44 TO BELIEVE that the person has violated the ~~board's~~ conditional release
45 order or that the person's mental health has deteriorated, the ~~chairperson~~

1 ~~or vice chairperson of the board~~ CHIEF MEDICAL OFFICER OR THE CHIEF
2 MEDICAL OFFICER'S DESIGNEE may order the person's return to
3 hospitalization. Before ordering a person's return to hospitalization,
4 the ~~chairperson or vice chairperson~~ CHIEF MEDICAL OFFICER OR THE CHIEF
5 MEDICAL OFFICER'S DESIGNEE shall consult with the OUTPATIENT treatment
6 supervisor or the OUTPATIENT TREATMENT supervisor's designee to determine
7 if rehospitalization is necessary to protect the safety of the public or
8 the person. With sufficient cause, the ~~chairperson or vice chairperson~~
9 CHIEF MEDICAL OFFICER OR THE CHIEF MEDICAL OFFICER'S DESIGNEE may waive
10 the requirement to consult with the OUTPATIENT treatment supervisor or the
11 OUTPATIENT TREATMENT supervisor's designee and may issue the return order
12 immediately. If the return order is issued before a consultation occurs,
13 the ~~chairperson or vice chairperson~~ CHIEF MEDICAL OFFICER OR THE CHIEF
14 MEDICAL OFFICER'S DESIGNEE shall consult with the OUTPATIENT treatment
15 supervisor or the treatment supervisor's designee as soon as possible
16 after the order is issued. The ~~board~~ COURT SHALL BE NOTIFIED IMMEDIATELY
17 AND must set a hearing pursuant to section 13-3998.

18 ~~D. Whether on the board's motion or on motion of the person or~~
19 ~~treatment supervisor, the board must hold a hearing for each person under~~
20 ~~the board's jurisdiction at least once every twenty-four months.~~

21 D. ALL MONTHLY MONITORING REPORTS REGARDING A PERSON WHO IS ON
22 CONDITIONAL RELEASE SHALL BE REVIEWED BY THE OUTPATIENT TREATMENT
23 SUPERVISOR, AND THE OUTPATIENT TREATMENT SUPERVISOR SHALL NOTIFY THE COURT
24 AND THE SECURE MENTAL HEALTH FACILITY OF ANY CHANGES IN THE PERSON'S
25 CONDITION.

26 Sec. 18. Title 13, chapter 38, article 14, Arizona Revised
27 Statutes, is amended by adding section 13-3996, to read:

28 13-3996. Hearing on request of the treatment supervisor;
29 requirements; release terms

30 A. THE PSYCHIATRIC SECURITY REVIEW BOARD SHALL GRANT A HEARING THAT
31 IS REQUESTED BY A TREATMENT SUPERVISOR. THE TREATMENT SUPERVISOR SHALL
32 SUBMIT THE REQUEST TO THE BOARD AND THE PARTIES SIMULTANEOUSLY AND INCLUDE
33 A MENTAL HEALTH REPORT THAT SPECIFIES THE REASONS FOR THE REQUEST.

34 B. IF A TREATMENT SUPERVISOR BELIEVES THAT THE PERSON HAS VIOLATED
35 A CONDITIONAL RELEASE TERM OR THAT THE PERSON'S MENTAL HEALTH HAS
36 DETERIORATED, THE BOARD SHALL GRANT THE TREATMENT SUPERVISOR'S REQUEST FOR
37 A HEARING AND:

38 1. IF THE PERSON IS RESIDING IN A SECURE MENTAL HEALTH FACILITY,
39 THE TREATMENT SUPERVISOR MAY SUSPEND THE PERSON'S CONDITIONAL RELEASE
40 PENDING THE HEARING AND A DETERMINATION BY THE BOARD. THE TREATMENT
41 SUPERVISOR SHALL SUBMIT A WRITTEN MENTAL HEALTH REPORT, INCLUDING THE
42 CIRCUMSTANCES AND THE REASONS FOR ANY PROPOSED CHANGE, TO THE BOARD AND
43 THE PARTIES WITHIN SEVEN DAYS AFTER THE REQUEST FOR A HEARING.

44 2. IF THE PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY, THE
45 CHAIRPERSON OR VICE CHAIRPERSON OF THE BOARD MAY ORDER THE PERSON'S RETURN

1 TO HOSPITALIZATION AND SET A HEARING PURSUANT TO SECTION 13-3998. IF THE
2 PERSON IS RETURNED TO HOSPITALIZATION, THE OUTPATIENT TREATMENT SUPERVISOR
3 SHALL SUBMIT A MENTAL HEALTH REPORT TO THE BOARD AND THE PARTIES WITHIN
4 THREE DAYS AFTER A REQUEST IS MADE PURSUANT TO THIS SUBSECTION. THE
5 MENTAL HEALTH REPORT MUST PROVIDE ALL OF THE INFORMATION THAT WAS
6 CONSIDERED BEFORE GRANTING THE RETURN ORDER.

7 3. IF THE SAFETY OF THE COMMUNITY OR THE PERSON IS NOT AT RISK, THE
8 CHAIRPERSON OR VICE CHAIRPERSON, PENDING THE HEARING AND THE BOARD'S
9 DETERMINATION, MAY ALLOW THE PERSON TO REMAIN IN THE COMMUNITY SUBJECT TO
10 THE PERSON'S CONDITIONAL RELEASE TERMS. IF THE PERSON REMAINS IN THE
11 COMMUNITY, THE OUTPATIENT TREATMENT SUPERVISOR SHALL SUBMIT A MENTAL
12 HEALTH REPORT TO THE BOARD AND THE PARTIES WITHIN SEVEN DAYS AFTER THE
13 REQUEST IS MADE PURSUANT TO THIS SUBSECTION.

14 C. IF THE PERSON IS CONDITIONALLY RELEASED TO THE COMMUNITY AND THE
15 OUTPATIENT TREATMENT SUPERVISOR HAS REASONABLE CAUSE TO BELIEVE THAT THE
16 PERSON HAS VIOLATED ANY TERM OF CONDITIONAL RELEASE, IS IN NEED OF
17 IMMEDIATE CARE, CUSTODY OR TREATMENT AT A SECURE MENTAL HEALTH FACILITY OR
18 THAT THE PERSON'S MENTAL HEALTH CREATES A RISK TO THE SAFETY OF THE PUBLIC
19 OR ANY PERSON, THE OUTPATIENT TREATMENT SUPERVISOR SHALL CONSULT WITH THE
20 SECURE MENTAL HEALTH FACILITY, AND THE CHIEF MEDICAL OFFICER FOR THE
21 SECURE MENTAL HEALTH FACILITY MAY ORDER THAT THE PERSON BE TAKEN INTO
22 CUSTODY AND TRANSPORTED TO A SECURE MENTAL HEALTH FACILITY. THE PERSON
23 SHALL BE IMMEDIATELY ADMITTED TO THE SECURE MENTAL HEALTH FACILITY. THE
24 OUTPATIENT TREATMENT SUPERVISOR SHALL IMMEDIATELY PROVIDE WRITTEN NOTICE
25 TO THE BOARD, THE PARTIES AND THE CHIEF MEDICAL OFFICER OF THE SECURE
26 MENTAL HEALTH FACILITY THAT CONFIRMS THAT THE PERSON HAS BEEN ADMITTED
27 PURSUANT TO THIS SECTION. ON RECEIVING THE NOTICE, THE BOARD SHALL SET A
28 HEARING PURSUANT TO SECTION 13-3998. THE HEARING MUST OCCUR WITHIN SEVEN
29 DAYS AFTER THE PERSON'S ADMISSION TO THE SECURE MENTAL HEALTH FACILITY,
30 EXCEPT THAT THE BOARD MAY CONTINUE THE HEARING FOR GOOD CAUSE OR ON
31 AGREEMENT OF THE PARTIES. THE OUTPATIENT TREATMENT SUPERVISOR SHALL
32 SUBMIT A WRITTEN MENTAL HEALTH REPORT TO THE BOARD AND THE PARTIES WITHIN
33 THREE DAYS AFTER THE PERSON'S RETURN AND MUST INCLUDE ALL OF THE
34 INFORMATION THAT WAS CONSIDERED BEFORE ORDERING THE PERSON'S RETURN.

35 Sec. 19. Section 13-3996, Arizona Revised Statutes, as added by
36 section 18 of this act, is amended to read:

37 13-3996. Hearing on request of the treatment supervisor;
38 requirements; release terms

39 A. ~~The psychiatric security review board~~ ON THE REQUEST OF A
40 TREATMENT SUPERVISOR, THE COURT shall grant a hearing ~~that is requested by~~
41 ~~a treatment supervisor~~ TO REVIEW THE STATUS OF THE PERSON UNDER
42 SUPERVISION. THE TREATMENT SUPERVISION SHALL INCLUDE IN THE REQUEST THE
43 SPECIFIC REASONS FOR REQUESTING THE HEARING AND INCLUDE ANY RECORDS, UNDER
44 SEAL, OF COMMUNICATIONS AND REPORTS THAT SUPPORT THE NEED FOR THE HEARING.
45 The treatment supervisor shall submit the request to the ~~board~~ COURT and

1 the parties simultaneously and include a mental health report ~~that~~
2 ~~specifies the reasons for the request~~ UNDER SEAL.

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

6 ~~B.~~ C. If a treatment supervisor believes that the person has
7 violated a conditional release term or that the person's mental health has
8 deteriorated, ~~the board shall grant the treatment supervisor's request for~~
9 ~~a hearing~~ and:

10 1. If the person is residing in a secure mental health facility,
11 the treatment supervisor may suspend the person's conditional release
12 pending the hearing and a determination by the ~~board~~ COURT. The treatment
13 supervisor shall ~~submit~~ FILE a written mental health report UNDER SEAL,
14 including the circumstances and the reasons for any proposed change, to
15 the ~~board~~ COURT and the parties within seven days after the request for a
16 hearing.

17 2. If the person is conditionally released to the community, the
18 ~~chairperson or vice chairperson of the board~~ COURT may order the person's
19 return to hospitalization and set a hearing pursuant to section
20 13-3998. If the person is returned to hospitalization, the outpatient
21 treatment supervisor shall submit a mental health report to the ~~board~~
22 COURT and the parties within three days after a request is made pursuant
23 to this subsection. The mental health report must provide all of the
24 information that was considered before granting the return order.

25 3. If the safety of the community or the person is not at risk, the
26 ~~chairperson or vice chairperson, pending the hearing and the board's~~
27 ~~determination,~~ COURT may allow the person to remain in the community
28 subject to the person's conditional release terms. If the person remains
29 in the community, the outpatient treatment supervisor shall submit a
30 mental health report to the ~~board~~ COURT and the parties within seven days
31 after the request is made pursuant to this subsection.

32 ~~C.~~ D. If the person is conditionally released to the community and
33 the outpatient treatment supervisor has reasonable cause to believe that
34 the ~~person has violated any term of conditional release, is in need of~~
35 ~~immediate care, custody or treatment at a secure mental health facility or~~
36 ~~that the~~ person's mental health ~~creates a risk to~~ HAS DETERIORATED SUCH
37 THAT IMMEDIATE REHOSPITALIZATION IS NECESSARY TO PROTECT the safety of the
38 public or any person, the outpatient treatment supervisor shall consult
39 with the secure mental health facility, and the chief medical officer for
40 the secure mental health facility may SIGN AN order ~~that the person be~~
41 ~~taken into custody and transported to a~~ DIRECTING THE PERSON'S RETURN AND
42 MEMBERS OF THE TREATMENT TEAM MAY TRANSPORT THE PERSON TO THE secure
43 mental health facility. The person shall be immediately admitted to the
44 secure mental health facility. The outpatient treatment supervisor shall
45 ~~immediately provide written notice to the board,~~ INFORM THE COURT AND the

1 parties ~~and the chief medical officer of the secure mental health facility~~
2 ~~that confirms that the person has been admitted pursuant to this section~~
3 **WITHIN ONE COURT DAY AFTER THE PERSON'S RETURN.** On receiving the notice,
4 the **board COURT** shall set a hearing pursuant to section 13-3998. ~~The~~
5 ~~hearing must occur within seven days after the person's admission to the~~
6 ~~secure mental health facility, except that the board may continue the~~
7 ~~hearing for good cause or on agreement of the parties.~~ The outpatient
8 treatment supervisor shall submit a written mental health report to the
9 **board COURT** and the parties within three days after the person's return
10 and must include all of the information that was considered before
11 ordering the person's return.

12 Sec. 20. Title 13, chapter 38, article 14, Arizona Revised
13 Statutes, is amended by adding section 13-3997, to read:

14 13-3997. Hearing on motion of a person under the jurisdiction
15 of the psychiatric security review board

16 A. A PERSON WHO IS UNDER THE JURISDICTION OF THE BOARD MAY REQUEST
17 AND THE BOARD SHALL GRANT A HEARING NOT SOONER THAN ONE HUNDRED TWENTY
18 DAYS AFTER THE PERSON IS COMMITTED AND PLACED UNDER THE BOARD'S
19 JURISDICTION. AFTER THE INITIAL HEARING OR ANY SUBSEQUENT HEARING, A
20 PERSON MAY REQUEST AND THE BOARD SHALL GRANT A HEARING NOT SOONER THAN
21 TWENTY MONTHS AFTER THE PREVIOUS HEARING.

22 B. THE BOARD, WITH SUFFICIENT CAUSE, MAY GRANT A MOTION FOR A
23 HEARING BY THE PERSON WHO IS UNDER THE JURISDICTION OF THE BOARD AT ANY
24 TIME.

25 C. IF THE PERSON WHO IS UNDER THE JURISDICTION OF THE BOARD IS
26 REQUESTING A CHANGE IN CONDITIONAL RELEASE STATUS, THE REQUEST MUST
27 INCLUDE A PROPOSED FORM OF ORDER AND MAY BE ACCOMPANIED BY A MENTAL HEALTH
28 REPORT.

29 D. IF THE PERSON WHO IS UNDER THE JURISDICTION OF THE BOARD IS
30 CONDITIONALLY RELEASED TO THE COMMUNITY AND BELIEVES THAT
31 REHOSPITALIZATION IS NECESSARY TO PROTECT THE PERSON'S SAFETY OR THE
32 SAFETY OF THE PUBLIC, THE PERSON MAY PRESENT HIMSELF TO THE OUTPATIENT
33 TREATMENT SUPERVISOR AND REQUEST THAT THE OUTPATIENT TREATMENT SUPERVISOR
34 CONSULT WITH THE SECURE MENTAL HEALTH FACILITY AND REQUEST THAT THE CHIEF
35 MEDICAL OFFICER FOR THE SECURE MENTAL HEALTH FACILITY SIGN AN ORDER FOR
36 IMMEDIATE READMISSION TO THE SECURE MENTAL HEALTH FACILITY. THE BOARD
37 SHALL SET A HEARING PURSUANT TO SECTION 13-3998. THE INPATIENT AND
38 OUTPATIENT TREATMENT SUPERVISORS SHALL SUBMIT A MENTAL HEALTH REPORT TO
39 THE BOARD WITHIN SEVEN DAYS AFTER THE PERSON IS READMITTED.

40 Sec. 21. Section 13-3997, Arizona Revised Statutes, as added by
41 section 20 of this act, is amended to read:

42 13-3997. Hearing on motion of a person under the jurisdiction
43 of the court

44 A. A person who is under the jurisdiction of the **board COURT** may
45 request and the **board COURT** shall grant a hearing not sooner than one

1 hundred twenty days after the person is committed ~~and placed under the~~
2 ~~board's jurisdiction~~ TO A SECURE MENTAL HEALTH FACILITY. After the
3 initial hearing or any subsequent hearing, a person may request and the
4 ~~board~~ COURT shall grant a hearing not sooner than twenty months after the
5 previous hearing.

6 B. The ~~board~~ COURT, with sufficient cause, may grant a motion for a
7 hearing by the person ~~who is under the jurisdiction of the board~~ at any
8 time.

9 C. If the person ~~who is under the jurisdiction of the board~~ is
10 requesting a change in conditional release status, the request must
11 include a proposed form of order and may be accompanied by a mental health
12 report.

13 D. If the person ~~who is under the jurisdiction of the board~~ is
14 conditionally released to the community and believes that
15 rehospitalization is necessary to protect the person's safety or the
16 safety of the public, the person may present himself to the outpatient
17 treatment supervisor and request that the outpatient treatment supervisor
18 consult with the secure mental health facility and request that the chief
19 medical officer for the secure mental health facility sign an order for
20 immediate readmission to the secure mental health facility. The ~~board~~
21 COURT shall set a hearing pursuant to section 13-3998. The inpatient and
22 outpatient treatment supervisors shall submit a mental health report to
23 the ~~board~~ COURT within seven days after the person is readmitted.

24 Sec. 22. Title 13, chapter 38, article 14, Arizona Revised
25 Statutes, is amended by adding section 13-3998, to read:

26 13-3998. Return of person under board's jurisdiction to
27 secure mental health facility; hearing; procedures

28 A. A WRITTEN ORDER OF THE CHAIRPERSON OF THE BOARD, VICE
29 CHAIRPERSON OF THE BOARD OR TREATMENT SUPERVISOR IS SUFFICIENT FOR A LAW
30 ENFORCEMENT OFFICER TO TAKE A PERSON INTO CUSTODY AND TO TRANSPORT THE
31 PERSON TO A SECURE MENTAL HEALTH FACILITY. A COPY OF THE RETURN ORDER
32 MUST BE IMMEDIATELY PROVIDED TO THE PARTIES, THE BOARD AND THE TREATMENT
33 SUPERVISOR. THE SHERIFF OR OTHER PEACE OFFICER SHALL EXECUTE THE ORDER
34 AND IMMEDIATELY NOTIFY THE BOARD OF THE PERSON'S RETURN TO THE SECURE
35 MENTAL HEALTH FACILITY.

36 B. WITHIN TWENTY-FOUR HOURS AFTER A RETURN ORDER IS ISSUED, THE
37 ENTITY THAT ORDERED THE RETURN SHALL PROVIDE TO THE PARTIES, THE BOARD AND
38 THE TREATMENT SUPERVISOR ALL INFORMATION AND EVIDENCE THAT WAS CONSIDERED
39 WHEN ORDERING THE PERSON'S RETURN.

40 C. WITHIN SEVEN DAYS AFTER RETURNING THE PERSON TO THE SECURE
41 MENTAL HEALTH FACILITY PURSUANT TO SECTION 13-3995, 13-3996 OR 13-3997,
42 THE BOARD SHALL HOLD A HEARING TO DETERMINE IF THE RETURN WAS SUPPORTED BY
43 SUFFICIENT CAUSE. IF THE PERSON'S RETURN WAS:

44 1. NOT SUPPORTED BY SUFFICIENT CAUSE, THE BOARD SHALL ORDER THE
45 PERSON'S IMMEDIATE RELEASE UNDER THE PREVIOUSLY IMPOSED CONDITIONAL

1 RELEASE TERMS. THE BOARD, WITH SUFFICIENT CAUSE, MAY AMEND THE PERSON'S
2 CONDITIONAL RELEASE TERMS.

3 2. SUPPORTED BY SUFFICIENT CAUSE, THE BOARD MAY AMEND THE
4 CONDITIONAL RELEASE TERMS AND RELEASE THE PERSON IF THE BOARD FINDS BY
5 CLEAR AND CONVINCING EVIDENCE THAT THE SAFETY OF THE COMMUNITY AND THE
6 PERSON IS PROTECTED BY THE ORIGINAL OR THE AMENDED CONDITIONAL RELEASE
7 TERMS.

8 3. SUPPORTED BY SUFFICIENT CAUSE AND THE BOARD DETERMINES THAT THE
9 PERSON IS IN NEED OF FURTHER EVALUATION OR TREATMENT, THE BOARD MAY
10 SUSPEND THE TERMS OF CONDITIONAL RELEASE AND SET ANOTHER HEARING WITHIN
11 NINETY DAYS. THE INPATIENT TREATMENT SUPERVISOR SHALL CONSULT WITH THE
12 OUTPATIENT TREATMENT SUPERVISOR AND SUBMIT A MENTAL HEALTH REPORT TO THE
13 BOARD BY A DATE SET BY THE BOARD. THE MENTAL HEALTH REPORT MUST CONTAIN A
14 RECOMMENDATION TO EITHER TERMINATE, AMEND OR REINSTATE THE PERSON'S
15 CONDITIONAL RELEASE AND INCLUDE A PROPOSED FORM OF ORDER.

16 Sec. 23. Section 13-3998, Arizona Revised Statutes, as added by
17 section 22 of this act, is amended to read:

18 13-3998. Return of person under jurisdiction to secure mental
19 health facility; hearing; procedures

20 A. A written order of the ~~chairperson of the board, vice~~
21 ~~chairperson of the board or treatment supervisor~~ COURT OR THE CHIEF
22 MEDICAL OFFICER OR THE CHIEF MEDICAL OFFICER'S DESIGNEE is sufficient for
23 a law enforcement officer to take a person into custody and to transport
24 the person to a secure mental health facility. A copy of the return order
25 must be immediately provided to the parties, ~~the board and the treatment~~
26 ~~supervisor~~ AND THE COURT. The sheriff or other peace officer shall
27 execute the order and immediately notify the ~~board~~ COURT of the person's
28 return to the secure mental health facility.

29 B. Within twenty-four hours after a return order is issued, the
30 entity that ordered the return shall provide to the parties, ~~the board and~~
31 ~~the treatment supervisor~~ all information and evidence that was considered
32 when ordering the person's return.

33 C. Within seven days after returning the person to the secure
34 mental health facility pursuant to section 13-3995, 13-3996 or 13-3997,
35 the ~~board~~ COURT shall hold a hearing to determine if the return was
36 supported by sufficient cause. If the person's return was:

37 1. Not supported by sufficient cause, the ~~board~~ COURT shall order
38 the person's immediate release under the previously imposed conditional
39 release terms. The ~~board~~ COURT, with sufficient cause, may amend the
40 person's conditional release terms.

41 2. Supported by sufficient cause, the ~~board~~ COURT may amend the
42 conditional release terms and release the person if the ~~board~~ COURT finds
43 by clear and convincing evidence that the safety of the community and the
44 person is protected by the original or the amended conditional release
45 terms.

1 3. Supported by sufficient cause and the ~~board~~ COURT determines
2 that the person is in need of further evaluation or treatment, the ~~board~~
3 COURT may suspend the terms of conditional release and set another hearing
4 within ninety days. The inpatient treatment supervisor shall consult with
5 the outpatient treatment supervisor and submit a mental health report to
6 the ~~board~~ COURT by a date set by the ~~board~~ COURT. The mental health
7 report must contain a recommendation to either terminate, amend or
8 reinstate the person's conditional release and include a proposed form of
9 order.

10 Sec. 24. Title 13, chapter 38, article 14, Arizona Revised
11 Statutes, is amended by adding section 13-3999, to read:

12 13-3999. Hearing on expiration of psychiatric security review
13 board's jurisdiction

14 A. AT LEAST THIRTY DAYS BEFORE THE EXPIRATION OF THE BOARD'S
15 JURISDICTION OVER A PERSON, THE BOARD SHALL SET AN EXPIRATION HEARING AND
16 ORDER THE TREATMENT SUPERVISOR TO PROVIDE TO THE BOARD AND THE PARTIES A
17 MENTAL HEALTH REPORT. THE MENTAL HEALTH REPORT MUST INCLUDE AN EVALUATION
18 OF WHETHER THE PERSON MAY BE A DANGER TO SELF OR OTHERS OR HAS A
19 PERSISTENT AND ACUTE OR GRAVE DISABILITY AND WHETHER THE PERSON MEETS THE
20 CRITERIA FOR INVOLUNTARY HOSPITALIZATION PURSUANT TO TITLE 36, CHAPTER 5.

21 B. AT AN EXPIRATION HEARING AND BASED ON THE EVIDENCE PRESENTED,
22 THE BOARD MAY ALLOW THE BOARD'S JURISDICTION TO EXPIRE WITHOUT FURTHER
23 ACTION OR MAY ORDER THE COUNTY ATTORNEY OF THE COMMITTING COUNTY TO BEGIN
24 PROCEEDINGS FOR INVOLUNTARY CIVIL EVALUATION PURSUANT TO TITLE 36,
25 CHAPTER 5.

26 C. IF THE BOARD ORDERS AN INVOLUNTARY CIVIL EVALUATION FOR A PERSON
27 WHO RESIDES IN THE COMMUNITY, THE ORDER MUST REQUIRE THE PERSON'S
28 APPEARANCE AT A SPECIFIED TIME AND LOCATION AND PARTICIPATION IN THE
29 EVALUATION BEFORE THE EXPIRATION OF THE BOARD'S JURISDICTION. THE
30 TREATMENT SUPERVISOR SHALL ASSIST THE PERSON WITH SECURING TRANSPORTATION
31 TO THE LOCATION OF THE EVALUATION.

32 D. IF THE BOARD ORDERS INVOLUNTARY CIVIL EVALUATION FOR A PERSON
33 WHO RESIDES IN A SECURE MENTAL HEALTH FACILITY, THE BOARD MUST ORDER THE
34 SHERIFF OF THE COMMITTING COUNTY TO TRANSPORT THE PERSON AT A SPECIFIED
35 TIME AND LOCATION SO THAT THE PERSON MAY PARTICIPATE IN THE EVALUATION
36 BEFORE THE EXPIRATION OF THE BOARD'S JURISDICTION OVER THE PERSON.

37 Sec. 25. Section 13-3999, Arizona Revised Statutes, as added by
38 section 24 of this act, is amended to read:

39 13-3999. Hearing on expiration of jurisdiction

40 A. At least thirty days before the expiration of ~~the board's~~
41 jurisdiction over a person PURSUANT TO SECTION 13-502, the ~~board~~ COURT
42 shall set an expiration hearing and order the treatment supervisor to
43 provide to the ~~board~~ COURT and the parties a mental health report. The
44 mental health report must include an evaluation of whether the person may
45 be a danger to self or others or has a persistent and acute or grave

1 disability and whether the person meets the criteria for involuntary
2 hospitalization pursuant to title 36, chapter 5.

3 B. At an expiration hearing and based on the evidence presented,
4 the ~~board~~ COURT may allow ~~the board's~~ jurisdiction to expire without
5 further action or may order the county attorney of the committing county
6 to begin proceedings for ~~involuntary civil~~ COURT-ORDERED evaluation
7 pursuant to title 36, chapter 5.

8 C. If the ~~board~~ COURT orders an ~~involuntary civil~~ evaluation for a
9 person who resides in the community, the order must require the person's
10 appearance at a specified time and location and participation in the
11 evaluation before the expiration of ~~the board's~~ jurisdiction. The
12 treatment supervisor shall assist the person with securing transportation
13 to the location of the evaluation.

14 D. If the ~~board~~ COURT orders ~~involuntary civil~~ AN evaluation for a
15 person who resides in a secure mental health facility, the ~~board~~ COURT
16 must order the sheriff of the committing county to transport the person at
17 a specified time and location so that the person may participate in the
18 evaluation before the expiration of ~~the board's~~ SUPERVISORY jurisdiction
19 over the person.

20 Sec. 26. Title 13, chapter 38, article 14, Arizona Revised
21 Statutes, is amended by adding section 13-4000, to read:

22 13-4000. Independent qualified expert; evaluation

23 A. BEFORE ANY HEARING BEFORE THE BOARD, EITHER PARTY MAY RETAIN AN
24 INDEPENDENT QUALIFIED EXPERT TO EVALUATE THE PERSON AND MAKE
25 RECOMMENDATIONS TO THE BOARD.

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

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

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

34 E. IF PROVIDING TESTIMONY, AN INDEPENDENT QUALIFIED EXPERT WHO IS
35 RETAINED BY EITHER PARTY MUST PROVIDE A WRITTEN REPORT TO THE OPPOSING
36 PARTY, THE BOARD AND THE TREATMENT SUPERVISOR AT LEAST FOURTEEN DAYS
37 BEFORE A HEARING. IF REQUESTED, THE QUALIFIED EXPERT MUST BE AVAILABLE
38 FOR AN INTERVIEW OR DEPOSITION BY THE OPPOSING PARTY.

39 F. EITHER PARTY MAY REQUEST AND THE BOARD, WITH SUFFICIENT CAUSE,
40 SHALL GRANT A CONTINUANCE FOR A HEARING TO ACCOMMODATE A REASONABLE
41 REQUEST TO OBTAIN A QUALIFIED EXPERT EVALUATION. A HEARING THAT IS
42 REQUESTED PURSUANT TO SECTION 13-3998, SUBSECTION C MAY NOT BE CONTINUED
43 AT THE STATE'S REQUEST. A HEARING THAT IS HELD AT THE EXPIRATION OF THE
44 BOARD'S JURISDICTION MAY NOT BE CONTINUED.

1 Sec. 27. Section 13-4000, Arizona Revised Statutes, as added by
2 section 26 of this act, is amended to read:

3 13-4000. Independent qualified expert; evaluation

4 A. Before any hearing ~~before the board~~, either party may retain an
5 independent qualified expert to evaluate the person and make
6 recommendations to the ~~board~~ COURT.

7 B. The county of the committing court shall pay all costs
8 associated with the evaluation if the person is indigent.

9 C. If the person retains a qualified expert, the qualified expert
10 shall provide to the state's expert, on request, all records considered or
11 generated by the qualified expert.

12 D. If the person retains a qualified expert, the person must submit
13 to the state's evaluation, if requested, or is precluded from presenting
14 the person's own qualified expert opinion.

15 E. If providing testimony, an independent qualified expert who is
16 retained by either party must provide a written report to the ~~opposing~~
17 ~~party, the board and the treatment supervisor~~ REMAINING PARTIES at least
18 fourteen days before a hearing. If requested, the qualified expert must
19 be available for an interview or deposition by the opposing party.

20 F. ~~Either~~ ANY party may request and the ~~board~~ COURT, with
21 sufficient cause, shall grant a continuance for a hearing to accommodate a
22 reasonable request to obtain a qualified expert evaluation. A hearing
23 that is requested pursuant to section 13-3998, subsection C may not be
24 continued at the state's request. ~~A hearing that is held at the~~
25 ~~expiration of the board's jurisdiction may not be continued.~~

26 Sec. 28. Title 13, chapter 38, article 14, Arizona Revised
27 Statutes, is amended by adding section 13-4001, to read:

28 13-4001. Transferring jurisdiction of a person from the
29 psychiatric security review board to superior
30 court; procedures

31 A. IF THE BOARD ORDERS A PERSON TO BE TRANSFERRED TO THE SUPERIOR
32 COURT PURSUANT TO SECTION 13-3994, THE PERSON'S CASE SHALL BE TRANSFERRED
33 TO THE COMMITTING COURT FOR SUSPENSION OR IMPOSITION OF SENTENCE AND A
34 JUDICIAL REVIEW OF THE TRANSFER, OR BOTH.

35 B. WITHIN TWENTY DAYS AFTER THE BOARD ORDERS A PERSON'S TRANSFER TO
36 THE SUPERIOR COURT, THE PERSON MAY REQUEST A JUDICIAL REVIEW. A PETITION
37 FOR JUDICIAL REVIEW SHALL BE FILED WITH THE COMMITTING COURT AND SERVED ON
38 THE BOARD, THE SECURE MENTAL HEALTH FACILITY AND THE STATE.

39 C. AT THE JUDICIAL REVIEW HEARING, THE TREATMENT SUPERVISOR HAS THE
40 BURDEN TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE TRANSFER IS
41 APPROPRIATE. THE ISSUES OF THE REVIEW ARE LIMITED TO THE FOLLOWING:

42 1. WHETHER THE PERSON NEEDS ONGOING TREATMENT FOR A MENTAL DISEASE
43 OR DEFECT.

44 2. WHETHER THE PERSON IS DANGEROUS TO SELF OR OTHERS.

1 3. WHETHER THE PERSON'S OFFENSE IS ELIGIBLE FOR COMMITMENT TO THE
2 STATE DEPARTMENT OF CORRECTIONS.

3 D. IF THE COURT FINDS THE TRANSFER IS APPROPRIATE, THE COURT SHALL
4 SUSPEND THE PERSON'S SENTENCE AND PLACE THE PERSON ON SUPERVISED PROBATION
5 FOR THE REMAINDER OF THE COMMITMENT TERM OR IMPOSE THE SENTENCE AND ORDER
6 THE PERSON TO BE IMPRISONED IN THE STATE DEPARTMENT OF CORRECTIONS FOR THE
7 REMAINDER OF THE COMMITMENT TERM.

8 E. ALL TIME SPENT UNDER THE BOARD'S JURISDICTION AND ANY TIME SPENT
9 INCARCERATED SHALL BE CREDITED AGAINST ANY SENTENCE IMPOSED.

10 F. IF THE COURT FINDS THE TRANSFER IS NOT SUPPORTED BY THE
11 EVIDENCE, THE COURT SHALL TRANSFER JURISDICTION OVER THE PERSON BACK TO
12 THE BOARD PURSUANT TO SECTION 13-3994.

13 G. AT THE TIME OF SENTENCING OR PLACEMENT ON PROBATION, THE COURT
14 SHALL NOTIFY THE PERSON IN WRITING OF THE PERSON'S APPEAL RIGHTS UNDER
15 RULE 31, ARIZONA RULES OF CRIMINAL PROCEDURE.

16 Sec. 29. Section 13-4065, Arizona Revised Statutes, is amended to
17 read:

18 13-4065. Prohibition on psychological or psychiatric
19 examination to determine credibility

20 Except on agreement of the parties or as provided in section 13-3993
21 OR 13-4000, the court shall not order an adult or child victim or witness
22 in a prosecution for any offense in violation of chapter 14 of this title,
23 a dangerous crime against children in the first or second degree or child
24 abuse to submit to a psychological or psychiatric examination for the
25 purpose of assessing the witness' or victim's credibility.

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

28 13-4416. Notice of release, discharge or escape from a mental
29 health treatment agency

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

37 B. A mental health treatment agency shall mail to the victim
38 immediately after the escape or subsequent readmission of the person
39 accused or convicted of committing a criminal offense against the victim,
40 notice of the escape or subsequent readmission of the person who is placed
41 by court order in a mental health treatment agency pursuant to section
42 ~~13-3994~~ 13-3992, 31-226, 31-226.01, 36-540.01, 36-541.01 or 36-3707.

1 Sec. 31. Section 31-501, Arizona Revised Statutes, is amended to
2 read:

3 31-501. Psychiatric security review board; members; terms;
4 compensation; board member training; annual report

5 A. The psychiatric security review board is established consisting
6 of the following members who are appointed by the governor pursuant to
7 this section and section 38-211 except no member may be EMPLOYED BY a
8 county attorney, the attorney general or a public ~~defender~~ DEFENSE AGENCY:

9 1. One psychiatrist who is licensed pursuant to title 32, chapter
10 13 or 17, who is experienced in the criminal justice system and who is not
11 otherwise contracted to or employed by this state.

12 2. One psychologist who is licensed pursuant to title 32, chapter
13 19.1, who is experienced in the criminal justice system and who is not
14 otherwise contracted to or employed by this state.

15 3. One person who is experienced in parole, community supervision
16 or probation procedures and who does not qualify for membership on the
17 board under paragraph 1 or 2 OF THIS SUBSECTION.

18 4. One person who is from the general public, WHO IS A FORMER JUDGE
19 and who does not qualify for membership on the board under paragraph 1, 2
20 or 3 OF THIS SUBSECTION.

21 5. One person who is either a psychologist licensed pursuant to
22 title 32, chapter 19.1 or a psychiatrist licensed pursuant to title 32,
23 chapter 13 or 17, who is experienced in the criminal justice system and
24 who is not otherwise contracted to or employed by this state.

25 B. Board members shall serve staggered terms of four years. The
26 governor may remove any member for cause. The governor shall appoint a
27 member for the unexpired portion of a term to fill a vacancy resulting
28 other than from expiration of term. A member may be reappointed.

29 C. THE FORMER JUDGE MEMBER SHALL SERVE AS CHAIRPERSON. The
30 ~~psychiatric security review~~ board shall select one of its ~~members to serve~~
31 ~~as the chairman for a one year term and one of its~~ members to serve as
32 ~~vice-chairman~~ VICE CHAIRPERSON for a ~~one year~~ ONE-YEAR term.

33 D. The ~~psychiatric security review~~ board shall meet at least ~~twice~~
34 ONCE each month, unless the ~~chairman~~ CHAIRPERSON determines that there is
35 ~~not~~ sufficient business before the board to warrant ~~a meeting at the~~
36 ~~scheduled time~~ ADDITIONAL MEETINGS. The board shall also meet at the call
37 of the ~~chairman~~ CHAIRPERSON or a majority of the board members.

38 E. Members of the ~~psychiatric security review~~ board are eligible to
39 receive compensation pursuant to section 38-611 and for reimbursement of
40 expenses pursuant to title 38, chapter 4, article 2.

41 F. THE BOARD MAY CONDUCT A BOARD MEETING OR A HEARING WITH A PERSON
42 WHO IS COMMITTED TO A SECURE MENTAL HEALTH FACILITY IN PERSON OR BY USING
43 A VIDEO TELECONFERENCE SYSTEM.

1 G. BEGINNING JANUARY 1, 2022, EACH BOARD MEMBER MUST COMPLETE
2 TWELVE HOURS OF TRAINING WITHIN ONE YEAR AFTER THE MEMBER'S INITIAL
3 APPOINTMENT TO THE BOARD. ANY MEMBER OF THE BOARD WHO WAS APPOINTED
4 BEFORE JANUARY 1, 2022 SHALL COMPLETE THE TRAINING REQUIRED BY THIS
5 SUBSECTION ON OR BEFORE JANUARY 1, 2023. THE TRAINING MUST INCLUDE THE
6 SUBJECTS OF GOVERNANCE AND ADMINISTRATIVE MANAGEMENT, CONDUCT OF
7 QUASI-JUDICIAL PROCEEDINGS AND ADMINISTRATIVE PROCEDURE AND RULE ADOPTION.
8 THE OFFICE OF THE ATTORNEY GENERAL, THE DEPARTMENT OF ADMINISTRATION OR AN
9 OUTSIDE EDUCATIONAL INSTITUTION MAY PROVIDE THE TRAINING. ANY BOARD
10 ACTION TAKEN IS NOT SUBJECT TO CHALLENGE OR INVALIDATION BECAUSE A BOARD
11 MEMBER HAS NOT COMPLETED THE TRAINING REQUIRED BY THIS SUBSECTION.

12 Sec. 32. Section 31-502, Arizona Revised Statutes, is amended to
13 read:

14 31-502. Psychiatric security review board; powers and duties;
15 definition

16 A. The psychiatric security review board shall:

17 1. Maintain jurisdiction over persons who are committed to a secure
18 ~~state~~ mental health facility pursuant to section ~~13-3994~~ 13-3992.

19 2. Hold hearings ~~pursuant to section 13-3994~~ to determine if a
20 person committed to a secure ~~state~~ mental health facility is eligible for
21 ~~release or~~ conditional release **OR TRANSFER BACK TO SUPERIOR COURT**.

22 3. In conjunction with the secure ~~state~~ mental health facility and
23 other ~~appropriate~~ community agencies or persons, devise a plan for the
24 conditional release of a person ~~pursuant to section 13-3994~~.

25 4. Unless otherwise provided by law, confidentially maintain all
26 medical, social and criminal history records of persons who are committed
27 to its jurisdiction.

28 5. On **NOTICE FROM THE BOARD OR AN** application by a ~~person or agency~~
29 ~~that is responsible pursuant to an order for the supervision or treatment~~
30 ~~of~~ **TREATMENT SUPERVISOR OR** a person on conditional release, hold a hearing
31 to determine if ~~the conditions of~~ **CONDITIONAL** release should be **GRANTED**,
32 continued, modified, **SUSPENDED** or terminated. ~~Each application for a~~
33 ~~hearing shall be accompanied by a report setting forth the facts~~
34 ~~supporting the application. Termination of conditional release requires a~~
35 ~~vote of three of the four board members.~~

36 6. Keep a record of all hearings before the board ~~except board~~
37 ~~deliberations~~.

38 7. Give written notice of any hearing before the board to the
39 ~~attorney representing the person, the attorney general or other attorney~~
40 ~~representing the state, the~~ victim, **THE PARTIES** and the court that
41 committed the person to the board's jurisdiction.

42 8. Determine if the person about whom the hearing is being held is
43 indigent and, if so, request the committing court to appoint an attorney
44 to represent the person. The court of the county of prosecution shall
45 bear the cost of the court appointed attorney.

1 9. Before a hearing, disclose to the ~~person about whom the hearing~~
2 ~~is being held, TREATMENT SUPERVISOR AND the person's attorney, the~~
3 ~~attorney general and any attorney representing the state any PARTIES ALL~~
4 ~~OF THE~~ information, documents or reports that the board will be
5 considering.

6 ~~10. Within fifteen days after the conclusion of a hearing, give to~~
7 ~~the person, the attorney representing the person, the victim, the attorney~~
8 ~~general and any attorney representing the state and the court that~~
9 ~~committed the person to the board's jurisdiction notice of the board's~~
10 ~~decision.~~

11 10. REQUIRE AT LEAST TWO MEMBERS VOTING IN THE AFFIRMATIVE TO DENY,
12 GRANT, MODIFY, CONTINUE, SUSPEND OR TERMINATE A PERSON'S CONDITIONAL
13 RELEASE BASED ON CLEAR AND CONVINCING EVIDENCE.

14 11. ON OR BEFORE JUNE 1, 2022 AND EACH YEAR THEREAFTER, PREPARE AND
15 SUBMIT A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER
16 OF THE HOUSE OF REPRESENTATIVES, THE CHAIRPERSON OF THE SENATE HEALTH AND
17 HUMAN SERVICES COMMITTEE, OR ITS SUCCESSOR COMMITTEE, AND THE CHAIRPERSON
18 OF THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE, OR
19 ITS SUCCESSOR COMMITTEE, AND SHALL PROVIDE A COPY OF THIS REPORT TO THE
20 SECRETARY OF STATE. IN ADDITION TO ANY OTHER INFORMATION THAT THE BOARD
21 DETERMINES TO INCLUDE IN THE REPORT, THE REPORT MUST INCLUDE ALL OF THE
22 FOLLOWING:

23 (a) THE NUMBER OF CASES HEARD BY THE BOARD, THE COUNTY OF ORIGIN
24 FOR EACH CASE, THE NATURE OF EACH CASE, THE DISPOSITION OF EACH CASE AND
25 WHETHER ANY OF THE BOARD'S DECISIONS WERE APPEALED.

26 (b) WHETHER THE BOARD HAS IMPLEMENTED ALL OF THE RECOMMENDATIONS
27 THAT WERE MADE IN THE MOST RECENT AUDITOR GENERAL'S REPORT ON THE BOARD
28 AND THE REASON FOR A RECOMMENDATION NOT BEING IMPLEMENTED.

29 (c) WHETHER TRAINING HAS BEEN PROVIDED TO BOARD MEMBERS ON
30 UNDERSTANDING AND COMPLYING WITH STATUTORY REQUIREMENTS.

31 (d) WHETHER THE ARIZONA STATE HOSPITAL HAS COMPLETED A MENTAL
32 HEALTH REPORT ON EACH PERSON WHOSE CASE WAS HEARD BY THE BOARD AND WHETHER
33 THE REPORT WAS PROVIDED WITHIN THE REQUIRED TIME FRAMES.

34 (e) WHETHER THE ARIZONA STATE HOSPITAL COMPLETED A RISK ASSESSMENT
35 ON EACH PERSON WHEN REQUESTED BY THE BOARD.

36 (f) THE NUMBER OF TIMES THE BOARD DENIED A REQUEST TO CONTINUE A
37 HEARING MADE BY THE ARIZONA STATE HOSPITAL OR A PERSON'S ATTORNEY AND THE
38 REASON FOR EACH DENIAL.

39 (g) WHETHER THE ARIZONA STATE HOSPITAL REFUSED TO COMPLY WITH A
40 BOARD ORDER, THE REQUIREMENTS OF THE ORDER AND, IF KNOWN, THE REASON FOR
41 THE REFUSAL.

42 (h) THE NUMBER OF PERSONS WHOM THE ARIZONA STATE HOSPITAL
43 RECOMMENDED TO THE BOARD FOR CONDITIONAL RELEASE AND OF THOSE REFERRALS,
44 THE NUMBER OF PERSONS WHO WERE GRANTED A CONDITIONAL RELEASE BY THE BOARD.

1 (i) THE NUMBER OF TIMES THE BOARD USED THE BOARD'S SUBPOENA POWER
2 TO SECURE A DOCUMENT OR A WITNESS FOR A HEARING AND THE CIRCUMSTANCES THAT
3 REQUIRED THE SUBPOENA.

4 B. The ~~psychiatric security review~~ board may:

5 1. Adopt rules to carry out the purposes of this chapter and title
6 13, chapter 38, article 14.

7 ~~2. Monitor all persons under its jurisdiction.~~

8 ~~3.~~ 2. As a condition of release, require a person to receive
9 treatment from a board designated licensed or certified state or local
10 mental health facility or agency or person.

11 ~~4. Modify or terminate the terms of a person's conditional release.~~

12 ~~5.~~ 3. Issue subpoenas requiring the attendance and testimony of
13 witnesses at any hearing before the board. Subpoenaed witnesses shall be
14 paid the same fees and mileage allowance paid witnesses in civil actions.
15 If a person fails to comply with a subpoena that is issued pursuant to
16 this paragraph, the board may request a superior court judge to issue a
17 contempt order.

18 4. REQUEST IN THE NOTICE OF HEARING THAT A SPECIFIC WITNESS WHO IS
19 FROM THE PERSON'S TREATMENT TEAM ATTEND A HEARING. IF A WITNESS IS
20 REQUESTED IN THE NOTICE OF HEARING, THE PERSON'S TREATMENT SUPERVISOR IS
21 RESPONSIBLE FOR NOTIFYING THE WITNESS.

22 5. CONTINUE A HEARING IF THE BOARD DETERMINES THAT THE STANDARD OF
23 CLEAR AND CONVINCING EVIDENCE HAS NOT BEEN MET, THE PATIENT REQUESTS A
24 CONTINUANCE AND THE OPPORTUNITY TO SUPPLEMENT THE INFORMATION THAT IS
25 AVAILABLE FOR THE BOARD'S CONSIDERATION AND THE BOARD FINDS THERE IS
26 SUFFICIENT CAUSE TO GRANT THE REQUEST FOR THE CONTINUANCE.

27 6. RECEIVE WITNESS TESTIMONY IN A HEARING THAT IS CLOSED TO THE
28 PUBLIC.

29 C. For the purposes of this section, "secure ~~state~~ mental health
30 facility" ~~means a secure state mental health facility under the department~~
31 ~~of health services~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 13-3991.

32 Sec. 33. Delayed repeal

33 Title 31, chapter 4, Arizona Revised Statutes, is repealed from and
34 after June 30, 2023.

35 Sec. 34. Section 36-206, Arizona Revised Statutes, is amended to
36 read:

37 36-206. Duties of superintendent; clinical assessment

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

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

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

8 D. On or before August 1 of each year, the director shall establish
9 maximum funded capacity and a percentage allocation formula for forensic
10 and civil bed capacity at the Arizona state hospital based on census data
11 collected pursuant to sections ~~13-3994~~ 13-3992, 13-4512, 36-202.01 and
12 36-503.03. By June 1 of each year, the director shall solicit and
13 consider the recommendations of representatives of the county board of
14 supervisors, the Arizona prosecuting attorneys' advisory council and the
15 superior court when establishing this formula. In addition to
16 establishing the formula, the director, the county board of supervisors,
17 the Arizona prosecuting attorneys' advisory council and the superior court
18 shall develop a contingency plan for the placement of patients subject to
19 sections ~~13-3994~~ 13-3992, 13-4512, 36-202.01 and 36-503.03 in times of
20 emergency and other unforeseen circumstances. The director shall notify
21 the governor, the president of the senate, the speaker of the house of
22 representatives and the ~~chairman~~ CHAIRPERSON of each county board of
23 supervisors of the funded capacity and allocation formula for the current
24 fiscal year. Thirty days before the notification of the forensic and civil
25 bed funded capacity formula, the director shall provide this information
26 to the representatives of the county board of supervisors, the Arizona
27 prosecuting attorneys' advisory council and the superior court for
28 comment. The director shall include these comments when issuing the
29 formula.

30 Sec. 35. Section 36-209, Arizona Revised Statutes, is amended to
31 read:

32 36-209. Reports by superintendent and director

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

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

38 2. Methods of treatment used and the results.

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

43 4. Census data for treatment programs pursuant to sections ~~13-3994~~
44 13-3992, 13-4512, 36-202.01 and 36-503.03.

45 5. A complete employment and personnel record.

- 1 6. The condition of existing equipment.
- 2 7. Recommendations for improvement of the institution.
- 3 8. Other matters required by the director or deemed advisable by
- 4 the superintendent to present a complete description of the condition and
- 5 activities of the hospital.

6 B. Not later than the fifteenth day of each month, the director

7 shall prepare in duplicate a financial statement of the affairs of the

8 state hospital, including:

- 9 1. The amounts appropriated for the current fiscal year for
- 10 operation, maintenance and improvement.
- 11 2. The amount expended during the preceding calendar month.
- 12 3. The balance on hand.
- 13 4. The estimated expenditures for the current month.
- 14 5. An inventory report.

15 C. The original report and statements required by this section

16 shall be filed with and retained as records of the director and duplicates

17 filed with the director of the department of administration.

18 D. At such time as the director designates, the superintendent

19 shall submit to the director a financial statement of the affairs of the

20 state hospital during the preceding fiscal year in a form prescribed by

21 the director of the department of administration.

22 E. By October 1 of each year, the director shall submit to the

23 governor a comprehensive report of the activities of the state hospital

24 during the preceding fiscal year, which shall include the annual reports

25 of the superintendent, and shall contain:

- 26 1. An account of the work done.
- 27 2. Recommendations for improvements.
- 28 3. Financial statements that clearly reflect the origin and
- 29 disposition of all monies that have come into the hands of the director or
- 30 an employee through appropriations or otherwise.

31 F. The director shall make such supplemental reports as the

32 governor or the legislature requests.

33 G. The annual report prescribed by subsection E of this section

34 shall be published for the information of the public and five copies shall

35 be delivered to the chief clerk of the house of representatives and the

36 secretary of the senate, respectively, who shall keep them on file for the

37 use of the members of each house.

38 Sec. 36. Title 36, chapter 2, article 1, Arizona Revised Statutes,

39 is amended by adding a new section 36-220, to read:

40 36-220. Psychiatric security review board requests; mandatory

41 appearances at conditional release hearings

42 A. AT EACH STATUTORY HEARING FOR A PATIENT OR ON REQUEST OF THE

43 PSYCHIATRIC SECURITY REVIEW BOARD, THE STATE HOSPITAL, AT LEAST FORTY-FIVE

44 DAYS BEFORE THE HEARING, SHALL PROVIDE THE PATIENT AND THE BOARD WITH ALL

45 OF THE FOLLOWING:

1 1. A REPORT ON THE PATIENT THAT CONTAINS INFORMATION IN A FORM AND
2 FORMAT AS REQUESTED OR PRESCRIBED BY THE PSYCHIATRIC SECURITY REVIEW
3 BOARD.

4 2. A PATIENT RISK ASSESSMENT, IF CLINICALLY INDICATED.

5 3. AN EXPLANATION OF ANY RULE VIOLATION BY THE PATIENT AND WHY THE
6 RULE VIOLATION IS RELEVANT TO ANY RECOMMENDATION FROM THE STATE HOSPITAL.

7 B. IN ADDITION TO THE INFORMATION REQUIRED BY SUBSECTION A OF THIS
8 SECTION, THE STATE HOSPITAL SHALL PROVIDE THE PSYCHIATRIC SECURITY REVIEW
9 BOARD WITH ANY INFORMATION THAT IS RELEVANT TO THE HEARING AT ANY TIME
10 BEFORE THE HEARING.

11 C. A PATIENT'S TREATING PSYCHIATRIST OR THE PSYCHIATRIST'S DESIGNEE
12 SHALL APPEAR AS A WITNESS BEFORE THE PSYCHIATRIC SECURITY REVIEW BOARD AT
13 EACH STATUTORY HEARING REGARDING THE PATIENT'S CONDITIONAL RELEASE.

14 Sec. 37. Delayed repeal

15 Section 36-220, Arizona Revised Statutes, as added by this act, is
16 repealed from and after June 30, 2023.

17 Sec. 38. Section 36-545.01, Arizona Revised Statutes, is amended to
18 read:

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

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

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

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

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

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

13 F. The charges fixed by the court as provided by this section and
14 ordered paid by the patient or the patient's estate, on filing with the
15 county recorder, become a lien on the property of the patient or the
16 patient's estate.

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

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

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

29 Sec. 39. Delayed repeal

30 Section 41-3028.11, Arizona Revised Statutes, is repealed from and
31 after June 30, 2023.

32 Sec. 40. Section 41-3803, Arizona Revised Statutes, is amended to
33 read:

34 41-3803. Independent oversight committee on the mentally ill;
35 training plan; report posting

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

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

41 B. Each region of this state covered by a regional behavioral
42 health authority shall have at least one independent oversight committee
43 with the authority and responsibilities as prescribed by the department of
44 administration pursuant to rules adopted by the department relating to
45 behavioral health services.

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

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

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

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

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

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

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

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

34 J. The independent oversight committee at the Arizona state
35 hospital shall have oversight of patients who have been determined to have
36 a serious mental illness and who are hospitalized and receiving behavioral
37 health services at the civil and forensic hospital pursuant to
38 subsection A of this section. The Arizona state hospital shall provide to
39 the committee, subject to state and federal law, information regarding the
40 following:

- 41 1. Seclusion of and the use of restraints on patients.
- 42 2. Incident accident reports.
- 43 3. Allegations of illegal, dangerous or inhumane treatment of
44 patients.

1 4. Provisions of services to patients in need of special
2 assistance.

3 5. Allegations of neglect and abuse.

4 6. Allegations of denial of rights afforded to patients with
5 serious mental illness except where a right may be restricted for the
6 safety of a patient, the state hospital or the public.

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

9 Sec. 41. Conforming legislation

10 The legislative council staff shall prepare proposed legislation
11 conforming the Arizona Revised Statutes to the provisions of this act for
12 consideration in the fifty-sixth legislature, first regular session.

13 Sec. 42. Transfer of jurisdiction of psychiatric security
14 review board powers and duties

15 A. Beginning from and after June 30, 2023, the superior court shall
16 have exclusive supervisory jurisdiction over all persons who are under the
17 supervision of the psychiatric security review board on July 1, 2023.

18 B. The superior court is vested with the powers and duties of the
19 psychiatric security review board as they existed before July 1, 2023 to
20 carry out the provisions of title 13, chapter 38, article 14.

21 Sec. 43. Effective date

22 The following sections are effective from and after June 30, 2023:

23 1. Section 12-820.02, Arizona Revised Statutes, as amended by this
24 act.

25 2. Section 13-502, Arizona Revised Statutes, as amended by section
26 5 of this act.

27 3. Section 13-3991, Arizona Revised Statutes, as amended by section
28 10 of this act.

29 4. Section 13-3992, Arizona Revised Statutes, as amended by section
30 12 of this act.

31 5. Section 13-3994, Arizona Revised Statutes, as amended by section
32 15 of this act.

33 6. Section 13-3995, Arizona Revised Statutes, as amended by section
34 17 of this act.

35 7. Section 13-3996, Arizona Revised Statutes, as amended by section
36 19 of this act.

37 8. Section 13-3997, Arizona Revised Statutes, as amended by section
38 21 of this act.

39 9. Section 13-3998, Arizona Revised Statutes, as amended by section
40 23 of this act.

41 10. Section 13-3999, Arizona Revised Statutes, as amended by
42 section 25 of this act.

43 11. Section 13-4000, Arizona Revised Statutes, as amended by
44 section 27 of this act.

S.B. 1839

APPROVED BY THE GOVERNOR JUNE 29, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 29, 2021.