



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

VETOED

AMENDED

FACT SHEET FOR S.B. 1030

guilty except insane; court jurisdiction

Purpose

Beginning July 1, 2023, places the powers and duties of the Psychiatric Security Review Board (PSRB) under the jurisdiction of the superior court (court). Prior to the July 1, 2023 effective date, makes various changes to the practices and the procedures of the PSRB.

Background

The PSRB was established in 1994 to maintain jurisdiction over persons the court of Arizona has found guilty except insane (GEI) who have caused or threatened to cause death or serious physical injury to another individual. Current law requires GEI individuals to be placed under the PSRB's jurisdiction for the length of their presumptive sentence and to be committed to the Arizona State Hospital (ASH), which is operated by the Arizona Department of Health Services (DHS). Statute authorizes the PSRB to release any GEI person under its jurisdiction from ASH to the community if the person meets statutory release criteria ([A.R.S. § 13-502](#)).

The fiscal impact to the state General Fund associated with this legislation is unknown.

Provisions

Transferring PSRB Authority to the Court

1. Repeals the PSRB, and beginning July 1, 2023, grants the court the exclusive supervisory jurisdiction over all persons who are currently under the supervision of the PSRB.
2. Vests the court with the powers and duties of the PSRB as they existed before July 1, 2023, to carry out procedures related to insane defendants.

Placing Persons Under the Jurisdiction of the PSRB

3. Requires a person found GEI to have the sentence the defendant could have received suspended, rather than sentenced to a term of incarceration in the Arizona Department of Corrections (ADC), when ordered to be placed under the jurisdiction of the PSRB.
4. Requires a person who is found GEI to be committed to a secure mental health facility for a period of treatment.
5. Modifies the parties who are notified by the court regarding a hearing set 75 days after the person's commitment to a secure mental health facility.

6. States that a person's commitment ends upon being found at a hearing that the person no longer has a mental disease or defect, or the person presents a danger to self or others and civil commitment proceedings need to be instituted.
7. Requires the court to place a person under the jurisdiction of the PSRB if the person's act caused the death of or serious physical injury to a person, including threats of death or serious physical injury.
8. Requires, beginning July 1, 2023, the court to retain jurisdiction over the person for the entirety of the commitment term.
9. Specifies the length of jurisdiction over the person is equal to the presumptive sentence for the crime the person could have received, except that prior convictions may not be considered for sentence enhancements.
10. Requires the court to retain jurisdiction of all matters that are not specifically delegated to the PSRB for the duration of the presumptive sentence until the sunset of the PSRB on July 1, 2023.
11. Requires the Arizona Department of Health Services (DHS) to assume custody of a person who has been found GEI, and outlines procedures for DHS to follow relating to maximum funded capacity, admission deferrals, county reimbursements and notification requirements.
12. Requires the parties to provide the PSRB and the secure mental health facility with a copy of the court's commitment order and all documents considered by the court or admitted into evidence, including all medical and mental health reports.

Court Procedures to Set Hearing

13. Allows the PSRB, an outpatient treatment supervisor and person under the jurisdiction of the PSRB to request a hearing.
14. Stipulates that a person who is placed under jurisdiction of the PSRB is not eligible for discharge from jurisdiction until the date set by the committing court or the person's case is transferred back to the court.
15. Allows, beginning July 1, 2023, the person to attend any hearing by video teleconference from the SMHF.
16. Requires, if the PSRB finds that the person no longer needs ongoing treatment for a mental disorder, is not dangerous and does not have a propensity to reoffend, the PSRB to order the person's transfer to the court for either a judicial review or placement on supervised probation for the remainder of the commitment term.
17. Terminates the PSRB's jurisdiction over the person when the person is transferred to the superior court.
18. Requires, beginning July 1, 2023, all time spent under the court's jurisdiction and any time spent committed to be credited against any sentence imposed.

19. Requires, beginning July 1, 2023, the court to notify the person in writing of the person's appeal rights under Rule 31 of the Arizona Rules of Criminal Procedure at the time of sentencing or placement on probation.
20. Subjects a person who is conditionally released to the following:
 - a) requires the PSRB, in conjunction with the secure mental health facility and supervisors from behavioral health community providers to agree on and specify the conditions of the person's release and requires the SMHF to monitor the person on conditional release;
 - b) requires a supervised treatment plan to be in place before the person's conditional release;
 - c) allows the PSRB to implement the person's conditional release in incremental steps beginning with supervised passes into the community for increasing lengths of time, continuing through independent passes and ending with release to live in the community;
 - d) requires the PSRB, before implementing each stage of conditional release, to find by clear and convincing evidence that the community will be protected and the person will be safe under the proposed supervised treatment plan;
 - e) allows pass supervisors, if approved by the PSRB, to include members of the inpatient or outpatient treatment team, other mental health treatment provider or other responsible persons who are willing to ensure that the person abides by the conditional release terms; and
 - f) requires the secure mental health facility to implement the PSRB conditional release order or provide the court and the parties with the reasons why the secure mental health facility did not implement the order.
21. States that at any hearing release or conditional release the party or treatment supervisor who is seeking a change in privileges or a change in hospitalization has the burden of proof by clear and convincing evidence.
22. Requires a party, unless otherwise required or on a showing of sufficient cause, to submit a request for a hearing and include the reasons for the request.
23. Requires a party or treatment supervisor, unless otherwise provided in statute or on a showing of sufficient cause, to submit a request for a hearing to the PSRB at least 45 days before the requested hearing date and to include the reasons for the request.
24. Requires the requesting party to provide the PSRB, the treatment supervisor and all other parties with a copy of the hearing request.
25. Requires, beginning July 1, 2023 and when a hearing is set, the court to order the treatment provider to submit a mental health report (MHR).
26. Requires, until July 1, 2023, the PSRB Chairperson (Chairperson) or PSRB Vice Chairperson (Vice Chairperson) to provide written notice of the hearing or a denied request for a hearing to all parties and the person's treatment supervisor within three days after receiving a request for the hearing.
27. Allows, until July 1, 2023, the PSRB to include with the notice of a hearing request for a mental health report, an updated risk assessment report and specific records from the person's medical record or testimony from a specific member of the person's treatment team.

28. Specifies, until July 1, 2023, that the requirements for the PSRB to request reports and records do not prohibit the PSRB from issuing a subpoena as statutorily authorized.
29. Allows, until July 1, 2023, the PSRB to only consider, in addition to testimony at any hearing, reports, documents, written statements and materials that are submitted to the PSRB, the treatment supervisor and the parties at least 14 days before the hearing date.
30. Requires a witness to be notified at least 45 days before the hearing date.
31. Allows the PSRB to grant a request to continue a hearing in order to comply.
32. Provides that, until July 1, 2023, the PSRB's decision is effective on issuance of the PSRB's written decision.
33. Provides that, beginning July 1, 2023, the court's decision is effective on oral pronouncement.
34. Requires any portion of the order that contains personal identifying information about the patient, treatment supervisor or pass supervisor to be sealed by the court and not disclosed to the public or to a victim.
35. Requires, until July 1, 2023 and on request of any party, the PSRB to grant a reasonable request for a hearing or a continuance for a previously scheduled hearing.
36. Allows, until July 1, 2023, a request for a hearing or a continuance for a previously scheduled hearing to be ruled on by the Chairperson or Vice Chairperson.
37. Allows, until July 1, 2023, the moving party, if the hearing or continuance is denied, to request that the full board reconsider the request at the next scheduled PSRB meeting.
38. Makes conforming changes to account for the transfer of PSRB responsibilities to the court on July 1, 2023.
39. Defines *personal identifying information*.

Hearing on Motion of the PSRB (Effective until July 1, 2023)

40. Allows the PSRB, on its own motion, to set a hearing to monitor a person's progress after giving at least 60 days' notice to the parties and the treatment supervisor.
41. Allows the PSRB to order the person's treatment supervisor to provide a mental health report to the PSRB and the parties within 30 days after providing the notice of the hearing.
42. Allows the PSRB, if sufficient cause exists, to set an expedited hearing to monitor a person's progress or mental health.
43. Requires the PSRB to include in the notice of hearing the specific reasons for the expedited hearing and attach all documents and evidence that support the need for the hearing, including any of the PSRB's concerns that need to be addressed by the parties or the treatment supervisor and allows an expedited mental health report from the treatment supervisor.

44. Allows the Chairperson or Vice Chairperson to order a person's return to hospitalization if a person is conditionally released to the community and the PSRB receives a reliable report that the person has violated the PSRB's conditional release order or that the person's mental health has deteriorated.
45. Requires, before ordering a person's return to hospitalization, the Chairperson or Vice Chairperson to consult with the treatment supervisor or the supervisor's designee to determine if rehospitalization is necessary to protect the safety of the public or the person.
46. Allows the Chairperson or Vice Chairperson, with sufficient cause, to waive the requirement to consult with the treatment supervisor or supervisor's designee and issue the return order immediately.
47. Requires, if the return order is issued before a consultation occurs, the Chairperson or Vice Chairperson to consult with the treatment supervisor or the treatment supervisor's designee as soon as possible after the order is issued.
48. Requires the PSRB to set a hearing to return the person to the secure mental health facility.
49. Requires the PSRB to hold a hearing for each person under the PSRB's jurisdiction at least once every 24 months.

Hearing on Motion of the SMHF (Beginning July 1, 2023)

50. Allows the court to grant a hearing to monitor a person's progress on conditional release on request of the SMHF.
51. Requires the SMHF to include in the request the specific reasons for requesting a hearing, as well as any records, under seal, of communications and reports that support the need for the hearing.
52. Requires the court, on request of the person or the SMHF to order the outpatient treatment supervisor to submit an MHR to the Court and the parties not later than 14 days before the hearing.
53. Allows the SMHF to request an expedited hearing if sufficient cause exists for the request and requires the SMHF to include in the request for the hearing the specific reasons for the expedited hearing and include records under seal of all communications and reports that support the need for the expedited hearing.
54. Requires the Court to set an expedited hearing to monitor a person's progress or mental health, if requested, and allows the Court to order an expedited MHR from the person's outpatient treatment supervisor.
55. Allows the chief medical officer (CMO) or their designee to order the person's return to hospitalization, if a person is conditionally released to the community and the SMHF has reason to believe that the person has violated the conditional release order or that the person's mental health has deteriorated.

56. Requires the CMO or their designee, before ordering a person's return to hospitalization, to consult with the outpatient treatment supervisor or the outpatient treatment supervisor's designee to determine if rehospitalization is necessary to protect the safety of the public or the person.
57. Allows, with sufficient cause, the CMO or their designee to waive the requirement to consult with the treatment supervisor or their designee and to issue the return order immediately.
58. Requires the CMO or their designee, if a return order is issued before a consultation occurs, to consult with the outpatient treatment supervisor or the outpatient treatment supervisor's designee as soon as possible after the order is issued.
59. Requires the court to be notified immediately after a return order is issued and to set a hearing for the return of the person under jurisdiction of the SMHF.
60. Requires all monthly monitoring reports regarding a person who is on conditional release to be submitted to the SMHF and allows the SMHF to take any appropriate action authorized by statute.

Hearing on Request of the Treatment Supervisor (Effective until July 1, 2023)

61. Requires the PSRB to grant a hearing that is requested by a treatment supervisor.
62. Requires the treatment supervisor to submit the request for a hearing to the PSRB and the parties simultaneously and include a mental health report that specifies the reasons for the request.
63. Requires the PSRB, if a treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated, to grant the treatment supervisor's request for a hearing and:
 - a) if the person is residing in a secure mental health facility, allows the treatment supervisor to suspend the person's conditional release pending the hearing and a determination by the PSRB;
 - b) if the person is conditionally released to the community, allows the Chairperson or Vice Chairperson to order the person's return to hospitalization and set a hearing, as outlined; or
 - c) if the safety of the community or the person is not at risk, allows the Chairperson or Vice Chairperson, pending the hearing and the PSRB's determination, to allow the person to remain in the community subject to the person's conditional release terms.
64. Allows the outpatient treatment supervisor to order that the person be taken into custody and transported to a secure mental health facility if the person is conditionally released to the community and the outpatient treatment supervisor has reasonable cause to believe that:
 - a) the person has violated a term of conditional release;
 - b) the person needs immediate care, custody or treatment at a secure mental health facility; or
 - c) the person's mental health creates a risk to the safety of the public or any person.
65. Requires the person to be immediately admitted to the secure mental health facility.
66. Requires the outpatient treatment supervisor to immediately provide written notice to the PSRB, the parties and the chief medical officer of the secure mental health facility that confirms that the person has been admitted.

67. Requires the PSRB to set a hearing upon receiving notice and requires the hearing to occur within seven days after the person's admission to the secure mental health facility, unless the PSRB continues the hearing for good cause or an agreement of the parties.
68. Requires the outpatient treatment supervisor to submit a written mental health report to the PSRB and the parties within three days after the person's return and to include all of the information that was considered before ordering the person's return.

Hearing on Request of the Treatment Supervisor (Beginning July 1, 2023)

69. Requires the court, on request of a treatment supervisor, to grant a hearing to review the status of the person under supervision.
70. Requires the treatment supervisor to include in the request the specific reasons for requesting the hearing and include any records, under seal, of communications and reports that support the need for the hearing.
71. Requires the treatment supervisor to submit the request to the court and the parties simultaneously and include an MHR under seal.
72. Requires a proposed form of order to accompany the request for a hearing if the treatment supervisor's recommendation includes a request for the addition of or changes to conditional release status.
73. Allows, if the treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated and the person is residing in a secure mental health facility, the treatment supervisor to suspend the person's conditional release pending the hearing and a determination by the court, and directs the supervisor to file a written MHR under seal, including the circumstances and the reasons for any proposed change, to the court and the parties within seven days after the request for a hearing.
74. Allows, if the treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated and if the person is conditionally released to the community, the court to order the person's return to hospitalization and set a hearing, and directs the outpatient treatment supervisor to, within three days after a request is made, submit a MHR to the court and the parties providing all of the information that was considered before granting the return order.
75. Allows, if the treatment supervisor believes that the person has violated a conditional release term or that the person's mental health has deteriorated and if the safety of the community or the person is not at risk, the court to allow the person to remain in the community subject to the person's conditional release terms, and requires the outpatient treatment supervisor to submit a MHR to the court and the parties within seven days after the request is made.
76. Allows the treatment supervisor, if the person is conditionally released to the community and the treatment supervisor has sufficient cause to believe that the person's mental health has deteriorated such that immediate rehospitalization is necessary to protect the safety of the public or the person, to sign an order directing the person's return, authorizes members of the treatment team to transport the person to the secure mental health facility and requires the person to be immediately readmitted.

77. Requires, when a person who was conditionally released to the community has been readmitted, the treatment supervisor to inform the court and the parties within one court day after the person's return and requires the court to set a hearing.
78. Requires the outpatient treatment supervisor to submit a written MHR to the court and the parties within three days after the person's return and to include all of the information that was considered before ordering the person's return.

Hearing on Motion of a Person Under the Jurisdiction of the PSRB (Effective until July 1, 2023)

79. Allows a person under the PSRB's jurisdiction to request and the PSRB to grant a hearing at least 120 days after the person is committed and placed under the PSRB's jurisdiction.
80. Allows a person, after the initial hearing or any subsequent hearing, to request and directs the PSRB to grant a hearing at least 20 months after the previous hearing.
81. Allows the PSRB, with sufficient cause, to grant a motion for a hearing by the person who is under jurisdiction of the PSRB at any time.
82. Requires, if the person is requesting a change in conditional release status, to include a proposed form of order and allows the person to accompany the form with a mental health report.
83. Allows a person to present himself to the outpatient treatment supervisor and request that the outpatient treatment supervisor sign an order for immediate readmission to the secure mental health facility if the person under the PSRB's jurisdiction is conditionally released to the community and believes that rehospitalization is necessary to protect the person's safety or the safety of the public.
84. Requires the PSRB to set a hearing to return the person to the secure mental health facility following a person's self-presentation and request for immediate readmission to the secure mental health facility.
85. Requires the inpatient and outpatient treatment supervisor to submit a mental health report to the PSRB within seven days after the person is readmitted.

Hearing on Motion of a Person Under the Jurisdiction of the Court (Beginning July 1, 2023)

86. Allows a person under the court's jurisdiction to request and the court to grant a hearing at least 120 days after the person is committed and placed under the court's jurisdiction.
87. Allows a person, after the initial hearing or any subsequent hearing, to request and directs the court to grant a hearing at least 20 months after the previous hearing.
88. Allows the court, with sufficient cause, to grant a motion for a hearing by the person who is under jurisdiction of the court at any time.

89. Requires, if the person is requesting a change in conditional release status, to include a proposed form of order and allows the person to accompany the form with an MHR.
90. Allows a person to present himself to the outpatient treatment supervisor and request that the outpatient treatment supervisor sign an order for immediate readmission to the secure mental health facility if the person under the court's jurisdiction is conditionally released to the community and believes that rehospitalization is necessary to protect the person's safety or the safety of the public.
91. Requires the court to set a hearing to return the person to the secure mental health facility following a person's self-presentation and request for immediate readmission to the secure mental health facility.
92. Requires the inpatient and outpatient treatment supervisor to submit an MHR to the court within seven days after the person is readmitted.

Return of Person Under the PSRB's Jurisdiction to SMHF (Effective until July 1, 2023)

93. Allows a law enforcement officer to take a person into custody and to transport the person to a secure mental health facility based on a written order of the Chairperson, Vice Chairperson or treatment supervisor.
94. Requires a copy of the return order to be immediately provided to the parties, the PSRB and the treatment supervisor.
95. Requires the sheriff or other peace officer to execute the order and immediately notify the PSRB of the person's return to the secure mental health facility.
96. Requires the entity that ordered the return, within 24 hours after a return order is issued, to provide to the parties, the PSRB and the treatment supervisor all information and evidence that was considered when ordering the person's return.
97. Requires the PSRB to hold a hearing to determine if the return was supported by sufficient cause within seven days of returning the person to the secure mental health facility.
98. Requires the PSRB, if the return was not supported by sufficient cause, to order the person's immediate release under the previously imposed conditional terms, subject to PSRB amendment with sufficient cause.
99. Allows the PSRB, if the return was supported by sufficient cause, to amend the conditional release terms and release the person if the PSRB finds by clear and convincing evidence that the safety of the community and the person is protected by the original or the amended conditional release terms.
100. Allows the PSRB, if the release is supported by sufficient cause and the PSRB determines the person is in need of further evaluation or treatment, to suspend the terms of the conditional release and set another hearing within 90 days and specifies that the inpatient treatment supervisor must consult with the outpatient treatment supervisor and submit a mental health report to the PSRB by a date set by the PSRB.

101. Requires the mental health report submitted for a determination that the person is in need of further evaluation or treatment to contain a:
- a) recommendation to either terminate, amend or reinstate the person's conditional release; and
 - b) proposed form of order.

Return of Person Under the Court's Jurisdiction to SMHF (Beginning July 1, 2023)

102. Deems a written order of the court, the CMO, the CMO's designee or the outpatient treatment supervisor as sufficient for a law enforcement officer to take a person into custody and to transport the person to a SMHF.
103. Requires a copy of the return order to be immediately provided to the parties and the court.
104. Requires the sheriff or other peace officer to execute the order and immediately notify the court of the person's return to the SMHF.
105. Requires the entity that ordered the return to, within 24 hours after the return order is issued, provide all information and evidence that was considered when ordering the person's return to the parties.
106. Requires the court to, within seven days of the person's return to the SMHF, hold a hearing to determine if the return was supported by sufficient cause.
107. Requires the court, if the person's return was not supported by sufficient cause, to order the person's immediate release under the previously imposed conditional release terms and allows the court, with sufficient cause, to amend the person's conditional release terms.
108. Allows the court, if the person's return was supported by sufficient cause, to amend the conditional release terms and release the person if the court finds by clear and convincing evidence that the safety of the community and the person is protected by the original or the amended conditional release terms.
109. Allows the court, if the person's return was supported by sufficient cause and the court determines that the person is in need of further evaluation or treatment, to suspend the terms of conditional release and set another hearing within 90 days and directs the inpatient treatment supervisor to consult with the outpatient treatment supervisor and, by a date certain, submit a MHR to the court and parties containing a recommendation to either terminate, amend or reinstate the person's conditional release including a proposed form of order.

Hearing on Expiration of PSRB Jurisdiction (Effective until July 1, 2023)

110. Requires the PSRB, at least 30 days before the expiration of the PSRB's jurisdiction over a person, to set an expiration hearing and order the treatment supervisor to provide a mental health report to the PSRB and the parties.
111. Requires the mental health report to include an evaluation of whether the person may be a danger to self or others or has a persistent and acute or grave disability and whether the person meets the statutory criteria for involuntary hospitalization.

112. Allows the PSRB, at an expiration hearing, to let its jurisdiction expire without further action or offer the county attorney of the committing county to begin proceedings for involuntary civil evaluation.
113. Requires, if the PSRB orders an involuntary civil evaluation for a person who resides in the community, the order to require the person's appearance at a specified time and location and participation in the evaluation before the expiration of the PSRB's jurisdiction.
114. Requires the treatment supervisor to assist the person with securing transportation to the location of the evaluation.
115. Requires the PSRB to order the sheriff of the committing county to transport the person at a specified time and location if the PSRB orders involuntary civil evaluation for a person who resides in a secure mental health facility.

Hearing on Expiration of PSRB Jurisdiction (Beginning July 1, 2023)

116. Requires the court, at least 30 days before the expiration of jurisdiction over a person, to set an expiration hearing and order the treatment supervisor to provide a MHR to the court and the parties including an evaluation of whether the person may be a danger to self or others or has a persistent, acute or grave disability and whether the person meets the statutory criteria for involuntary hospitalization.
117. Authorizes the court, after an expiration hearing, to allow jurisdiction to expire without further action or to order the county attorney of the committing county to begin proceedings for court-ordered evaluation.
118. Requires the court order, if the court orders an evaluation for a person who resides in the community, to require the person's appearance at a specified time and location and participation in the evaluation before the expiration of the court's jurisdiction.
119. Directs the treatment supervisor to assist the person with securing transportation to the location of the evaluation.
120. Requires the court, if it orders an evaluation for a person who resided in an SMHF, to order the sheriff of the committing county to transport the person at a specified time and location so that the person may participate in the evaluation before the expiration of the court's supervisory jurisdiction over the person.

Independent Qualified Expert (Effective until July 1, 2023)

121. Allows either party, before any hearing before the PSRB, to retain an independent qualified expert to evaluate the person and make recommendations to the PSRB.
122. Requires the county of the committing court to pay all costs associated with the evaluation if the person is indigent.
123. Requires, if the person retains a qualified expert, for the qualified expert to provide the state's expert, on request, all records considered or generated.

124. Requires, if the person retains a qualified expert, the person submit to the state's evaluation, if requested, or be precluded from presenting the person's own qualified expert opinion.
125. Requires, if an independent qualified expert is providing testimony, a written report to be provided to the opposing party, the PSRB and the treatment supervisor at least 14 days before a hearing.
126. Requires the qualified expert to be available for an interview or deposition by the opposing party upon request.
127. Allows either party to request and the PSRB, with sufficient cause, to grant a continuance for a hearing to accommodate a reasonable request to obtain a qualified expert evaluation.
128. Prohibits a return hearing that is requested in specified circumstances to be continued at the state's request.
129. Prohibits a hearing that is held at the expiration of the PSRB's jurisdiction from being continued.

Independent Qualified Experts (Beginning July 1, 2023)

130. Allows either party, before any hearing, to retain an independent qualified expert to evaluate the person and make recommendations to the court.
131. Requires the county of the committing court to pay all costs associated with the evaluation if the person is indigent.
132. Requires, if the person retains a qualified expert, for the qualified expert to provide the state's expert, on request, all records considered or generated.
133. Requires, if the person retains a qualified expert, the person submit to the state's evaluation, if requested, or be precluded from presenting the person's own qualified expert opinion.
134. Requires, if an independent qualified expert is providing testimony, a written report to be provided to the opposing party, the court and the treatment supervisor, at least 14 days before a hearing.
135. Requires the qualified expert to be available for an interview or deposition by the opposing party upon request.
136. Allows either party to request and the court, with sufficient cause, to grant a continuance for a hearing to accommodate a reasonable request to obtain a qualified expert evaluation.
137. Prohibits a return hearing that is requested in specified circumstances to be continued at the state's request.

Transferring Jurisdiction of a Person from the PSRB to Superior Court

138. Requires, if the PSRB orders a person to be transferred to the superior court, the person's case to be transferred to the committing court for suspension or imposition of sentence and a judicial review of the transfer, or both.

139. Allows the person, within 20 days after transfer to the superior court, to request a judicial review and requires a petition for judicial review to be filed with the committing court and served on the PSRB, the secure mental health facility and the state.
140. Provides, at the review hearing, that the treatment supervisor has the burden to prove by clear and convincing evidence that the transfer is appropriate and limits the issues of review to whether the person:
 - a) needs ongoing treatment for a mental disease or defect;
 - b) is dangerous to self or others; and
 - c) committed an offense that is eligible for commitment to ADC.
141. Requires the court, if it finds the transfer is appropriate, to suspend the person's sentence and place the person on supervised probation for the remainder of the commitment term or impose the sentence and order the person to be imprisoned in ADC for the remainder of the commitment term.
142. Requires all time spent under the PSRB's jurisdiction and any time spent incarcerated to be credited against any sentence imposed.
143. Requires the court, if it finds the transfer is not supported by the evidence, to transfer jurisdiction over the person back to the PSRB.
144. Requires the court, at the time of sentencing or placement on probation, to notify the person in writing of the person's appeal rights under Rule 31 of the Arizona Rules of Criminal Procedure.

PSRB Composition

145. Prohibits a member of the PSRB from being employed by any public defense agency rather than by a public defender.
146. Requires the PSRB to meet at least once, rather than at least twice, each month.
147. Allows the PSRB to conduct a board meeting or a hearing with a person who is committed to a SMHF in person or by using video teleconference software.
148. Requires, beginning January 1, 2022, each PSRB member to complete 12 hours of training within one year after the member's initial appointment to the PSRB.
149. Requires any member of the PSRB who was appointed prior to January 1, 2022, to complete the training by January 1, 2023.
150. Requires the training to include the subjects of:
 - a) governance and administrative management;
 - b) conduct of quasi-judicial proceedings; and
 - c) administrative procedure and rule adoption.
151. Allows the Arizona Attorney General's (AG's) Office, the Arizona Department of Administration or an outside educational institution to provide the training for PSRB members.
152. Specifies that a PSRB action is not subject to challenge or invalidation because a PSRB member did not complete the required training.

PSRB Powers and Duties

153. Specifies that the PSRB's authority to hold hearings also applies to the ability to transfer a committed person back to the superior court.
154. Provides that a conditional release, in addition to being continued, modified or terminated, can be granted or suspended.
155. Removes the requirement that each application for a hearing must be accompanied by a report setting forth the facts supporting the application.
156. Removes the stipulation that termination of conditional release requires a vote of three of the four PSRB members.
157. Removes the exemption of PSRB deliberations from the requirement that the PSRB keep a record of all hearings before the PSRB.
158. Requires specified notices given by the PSRB to be provided to *all* parties rather than to the attorney representing the person, the AG or other attorney representing the state.
159. Requires the PSRB to require at least two members voting in the affirmative to deny, grant, modify, continue, suspend or terminate a person's conditional release based on clear and convincing evidence.
160. Requires the PSRB, by June 1, 2022, and each year after, to prepare and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairperson of the Senate Health and Human Services Committee, the Chairperson of the House of Representatives Health and Human Services Committee, or their successor committees, and provide a copy to the Secretary of State.
161. Requires the annual report submitted by the PSRB to include:
 - a) the number of cases heard by the PSRB, the county of origin for each case, the nature of each case, the disposition of each case and whether any of the PSRB's decisions were appealed;
 - b) whether the PSRB has implemented all of the recommendations that were made in the most recent Auditor General's report on the PSRB and the reason for a recommendation not being implemented;
 - c) whether training has been provided to PSRB members on understanding and complying with statutory requirements;
 - d) whether ASH has completed a mental health report on each person whose case was heard by the PSRB and whether the report was provided within the required time frames;
 - e) whether ASH completed a risk assessment on each person when requested by the PSRB;
 - f) the number of times the PSRB denied a request to continue a hearing made by ASH or a person's attorney and the reason for each denial;
 - g) whether ASH refused to comply with a PSRB order, the requirements of the order and, if known, the reason for the refusal;
 - h) the number of persons whom ASH recommended to the PSRB for conditional release and of those referrals, the number of persons who were granted a conditional release by the PSRB; and
 - i) the number of times the PSRB used its subpoena power to secure a document or a witness for a hearing and the circumstances that required the subpoena.

162. Allows the PSRB to:

- a) request in the notice of hearing that a specific witness who is from the person's treatment team attend a hearing and require the treatment supervisor to be responsible for notifying the witness;
- b) continue a hearing if the PSRB determines that the standard of clear and convincing evidence has not been met, the patient requests a continuance and the opportunity to supplement the information that is available for the PSRB's consideration and the PSRB finds there is sufficient cause to grant the request for a continuance; and
- c) receive witness testimony in a hearing that is closed to the public.

Conditional Release Hearings

163. Requires ASH, at each statutory hearing for a patient or on request of the PSRB, to provide the patient and the PSRB with all of the following at least 45 days before a hearing:

- a) a report on the patient that contains information in a form and format as requested or prescribed by the PSRB;
- b) a patient risk assessment, if clinically indicated; and
- c) an explanation of any rule violation by the patient and why the rule violation is relevant to any recommendation from ASH.

164. Requires ASH to provide the PSRB with any information that is relevant to the hearing at any time before the hearing.

165. Requires a patient's treating psychiatrist or the psychiatrist's designee to appear as a witness before the PSRB at each statutory regarding the patient's conditional release.

166. Repeals provisions related to conditional release hearings on July 1, 2023.

GEI Court Procedures

167. Requires, if a person is found GEI the state and the defendant to provide the secure mental health facility with a copy of the court's commitment order and all documents considered by the court or admitted into evidence, including all medical and MHRs.

168. Requires the court, on request of the court or a party, with the consent of the defendant and after a determination that a reasonable basis exists to support the GEI defense, to appoint a qualified expert to evaluate the defendant and provide a written report.

169. Requires the report to include:

- a) the mental status of the defendant at the time of the alleged offense; and
- b) the relationship of the mental disorder to the alleged offense if the qualified expert determines that the defendant suffered from a mental disorder at the time of the alleged offense.

170. Requires the parties, within 10 days after appointment of the qualified expert, to provide all available medical records, mental health reports and criminal history records to the qualified expert.

171. Allows the qualified expert to request additional records from the parties, on notice to the court.

172. Requires a defense attorney, if the defendant provides a notice of a GEI defense, to nominate its own qualified expert to examine the defendant to determine the defendant's mental status at the time of the alleged offense.
173. Allows the state to call the same number of medical doctors and licensed psychologists who will testify on behalf of the defense.
174. Requires the court to order all of the reports submitted for the examination of the defendant by a qualified expert after a plea of guilt or after disposition of a matter where the defendant has pled GEI.
175. Allows the court to order the reports be opened only:
- a) for use by the court or defendant, or by the prosecutor if otherwise allowed by law, for further competency or sanity evaluations or in a hearing to determine whether the defendant is eligible for court-ordered treatment or is a sexually violent person;
 - b) for statistical analyses;
 - c) when the records are deemed necessary to assist in mental health treatment;
 - d) for use by the probation department or the Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) if the defendant is in the custody of or is scheduled to be transferred into the custody of ADCRR to assess and supervise or monitor the defendant by that department;
 - e) for use by a mental health treatment provider that provides treatment to the defendant or that assesses the defendant for treatment;
 - f) for data gathering; or
 - g) for scientific study.
176. Precludes a statement that is made by the defendant during an examination to determine GEI or any evidence resulting from the statement is not subject to disclosure in a mental health evaluation.

Miscellaneous

177. Requires Legislative Council staff to prepare proposed legislation conforming Arizona Revised Statutes to the provisions of this act for consideration in the 56th Legislature, First Regular Session.
178. Defines key terms.
179. Becomes effective on the general effective date, with a delayed effective date of July 1, 2023 as noted.

Amendments Adopted by Committee of the Whole

- Changes the effective date from July 1, 2022, to July 1, 2023.

Amendments Adopted by the House of Representatives

- Combines provisions from S.B. 1029 with S.B. 1030 that makes various changes to PSRB practices and procedures which remain in effect until July 1, 2023, at which time the PSRB sunsets and PSRB oversight of persons found GEI transfers to the Superior Court.

Governor's Veto Message

The Governor indicates in his [veto message](#) that his priority at this time is the FY 2022 state budget.

Senate Action

JUD 2/11/21 DP 7-0-1
3rd Read 2/23/21 30-0-0

House Action

JUD 3/18/21 W/D
CJR 3/24/21 DP 6-3-0

Vetoed by the Governor 5/28/21

Prepared by Senate Research

June 1, 2021

JA/kja