

REFERENCE TITLE: court-ordered treatment; enhanced services

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1113

Introduced by
Senator Barto

AN ACT

AMENDING TITLE 36, CHAPTER 5, ARTICLE 5, ARIZONA REVISED STATUTES, BY
ADDING SECTION 36-540.03; RELATING TO MENTAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 36, chapter 5, article 5, Arizona Revised
3 Statutes, is amended by adding section 36-540.03, to read:

4 36-540.03. Enhanced treatment services; determination of
5 need; order; definition

6 A. THE COURT MAY ENTER AN ORDER FOR ENHANCED TREATMENT SERVICES AS
7 PRESCRIBED IN THIS SECTION. THE ORDER FOR ENHANCED TREATMENT SERVICES MAY
8 BE ENTERED BY THE COURT AS AN INITIAL ORDER FOR TREATMENT OR ON ENTERING
9 AN AMENDED OR RENEWED ORDER FOR TREATMENT. AN ORDER FOR ENHANCED
10 TREATMENT SERVICES SHALL INCORPORATE A WRITTEN ENHANCED TREATMENT SERVICES
11 PLAN PREPARED BY STAFF FAMILIAR WITH THE PATIENT'S CASE HISTORY AND
12 APPROVED BY THE MEDICAL DIRECTOR OF THE PERSON, AGENCY OR ORGANIZATION
13 DESIGNATED TO ADMINISTER AND SUPERVISE THE PATIENT'S TREATMENT PROGRAM.

14 B. THE COURT MAY ENTER AN ORDER FOR ENHANCED TREATMENT SERVICES IF
15 THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT BOTH OF THE
16 FOLLOWING APPLY:

17 1. DESPITE HAVING HAD TREATMENT OFFERED, PRESCRIBED, RECOMMENDED OR
18 ORDERED TO IMPROVE THE PATIENT'S CONDITION OR TO PREVENT A RELAPSE OR
19 HARMFUL DETERIORATION OF THE PATIENT'S CONDITION, THE PATIENT HAS
20 DEMONSTRATED A CONTINUING UNWILLINGNESS OR INABILITY TO PARTICIPATE IN OR
21 ADHERE TO TREATMENT.

22 2. IF THE PATIENT DOES NOT PARTICIPATE IN AND ADHERE TO TREATMENT
23 ORDERED BY THE COURT, THERE IS A SUBSTANTIAL RISK THAT THE PATIENT'S
24 PHYSICAL, EMOTIONAL OR MENTAL CONDITION WILL DETERIORATE OR CONTINUE TO
25 DETERIORATE TO THE POINT THAT IT IS LIKELY THAT THE PATIENT WILL, IN THE
26 REASONABLY NEAR FUTURE, AS A RESULT OF A MENTAL DISORDER INFLICT PHYSICAL
27 HARM ON HIMSELF, HERSELF OR ANOTHER PERSON OR BE IN DANGER OF SUFFERING
28 SERIOUS HARM DUE TO THE PATIENT'S INABILITY TO PROVIDE FOR BASIC PERSONAL
29 NEEDS SUCH AS NOURISHMENT, ESSENTIAL CLOTHING, MEDICAL CARE, SHELTER OR
30 SAFETY.

31 C. IN DETERMINING WHETHER TO ENTER AN ORDER FOR ENHANCED TREATMENT
32 SERVICES, THE COURT SHALL CONSIDER ALL OF THE FOLLOWING:

33 1. EVIDENCE THAT THE PATIENT'S UNDERSTANDING OF THE NEED FOR
34 TREATMENT IS IMPAIRED TO THE POINT THAT THE PATIENT IS UNLIKELY TO
35 VOLUNTARILY PARTICIPATE IN OR ADHERE TO TREATMENT ORDERED.

36 2. EVIDENCE THAT WITHIN THE THIRTY-SIX MONTHS BEFORE THE PETITION,
37 EXCLUDING ANY TIME THE PATIENT WAS HOSPITALIZED OR INCARCERATED DURING
38 THIS PERIOD, THE PATIENT'S NONPARTICIPATION IN OR NONADHERENCE TO
39 TREATMENT OFFERED OR RECOMMENDED TO THE PATIENT WAS A FACTOR IN AT LEAST
40 ONE OF THE FOLLOWING:

41 (a) THE PATIENT BEING TAKEN TO A HOSPITAL EMERGENCY ROOM, A
42 PSYCHIATRIC HOSPITAL OR A CRISIS CENTER FOR EVALUATION, STABILIZATION OR
43 TREATMENT AT LEAST TWO TIMES.

44 (b) THE PATIENT BEING ARRESTED, CHARGED WITH A CRIME OR DETAINED IN
45 A JAIL OR DETENTION CENTER AT LEAST TWO TIMES.

1 (c) THE PATIENT COMMITTING, ATTEMPTING TO COMMIT OR THREATENING TO
2 COMMIT ONE OR MORE ACTS OF SERIOUS PHYSICAL HARM TO THE PATIENT OR OTHERS.

3 (d) ANY COMBINATION OF THE EVENTS OR ACTS SET FORTH IN SUBDIVISION
4 (a), (b) OR (c) OF THIS PARAGRAPH AT LEAST TWO TIMES.

5 3. ANY OTHER EVIDENCE RELEVANT TO THE PATIENT'S WILLINGNESS OR
6 ABILITY TO PARTICIPATE IN AND ADHERE TO TREATMENT.

7 D. IF THE COURT ENTERS AN ORDER FOR ENHANCED TREATMENT SERVICES,
8 THE COURT SHALL ADVISE THE PATIENT ORALLY AND IN WRITING THAT THE ENHANCED
9 TREATMENT SERVICES PLAN APPROVED BY THE COURT IS PART OF THE COURT ORDER
10 ENFORCEABLE BY THE COURT AND THAT NONCOMPLIANCE WITH THE COURT'S ORDER OR
11 THE TERMS AND CONDITIONS OF THE ENHANCED TREATMENT SERVICES PLAN MAY
12 RESULT IN THE ISSUANCE OF AN ORDER FOR THE PATIENT TO BE PLACED IN OR
13 RETURN TO INPATIENT TREATMENT AND AN ORDER FOR A PEACE OFFICER TO DETAIN
14 THE PATIENT FOR THAT PURPOSE.

15 E. THE COURT SHALL ORDER THE MENTAL HEALTH TREATMENT AGENCY
16 DESIGNATED TO ADMINISTER AND SUPERVISE THE PATIENT'S ENHANCED TREATMENT
17 SERVICES PLAN TO FILE WRITTEN PROGRESS REPORTS WITH THE COURT AT LEAST
18 EVERY SIXTY DAYS. THE COURT MAY REQUIRE THE PATIENT AND A REPRESENTATIVE
19 OF THE TREATMENT TEAM TO APPEAR IN COURT AT TIMES DESIGNATED TO ADDRESS
20 THE PATIENT'S COMPLIANCE AND THE SERVICES PROVIDED. THE COURT MAY CHANGE
21 OR MODIFY THE PATIENT'S ENHANCED TREATMENT SERVICES PLAN AT ANY SUCH
22 APPEARANCE ON MOTION OF ANY PARTY OR ON THE COURT'S OWN MOTION.

23 F. ANY TREATMENT DEEMED NECESSARY TO IMPROVE THE PATIENT'S
24 CONDITION AND PROTECT THE PUBLIC SHALL BE PROVIDED TO THE PATIENT
25 REGARDLESS OF THE PATIENT'S ELIGIBILITY TO RECEIVE THE TREATMENT PAID FOR
26 WITH FEDERAL MONIES. IN ORDER TO RECEIVE ANY ENHANCED TREATMENT SERVICES
27 ORDERED BY THE COURT, THE PATIENT MAY NOT BE REQUIRED BY ANY AGENCY OR
28 PROVIDER TO AGREE OR CONSENT TO THE ENHANCED TREATMENT SERVICES IF THE
29 COURT SPECIFICALLY FINDS THAT THE PATIENT'S MENTAL DISORDER SIGNIFICANTLY
30 IMPAIRS THE PATIENT'S CAPACITY TO MAKE AN INFORMED DECISION REGARDING
31 TREATMENT.

32 G. FOR THE PURPOSES OF THIS SECTION, "ENHANCED TREATMENT SERVICES"
33 MEANS SERVICES IDENTIFIED IN A WRITTEN ENHANCED TREATMENT SERVICES PLAN
34 APPROVED BY THE COURT THAT SHALL INCLUDE AT LEAST THE FOLLOWING:

35 1. ASSIGNMENT OF THE PATIENT TO A TREATMENT TEAM WITH AN INTENSIVE
36 CASE MANAGER FOR ANY SERVICES WHO IS REQUIRED, AMONG OTHER DUTIES, TO HAVE
37 IN-PERSON CONTACT WITH THE PATIENT AT SUCH FREQUENCY THAT WILL FACILITATE
38 THE PATIENT'S ADHERENCE TO AND COMPLIANCE WITH THE TREATMENT PLAN AND WILL
39 ALLOW FOR REGULAR FIRST-HAND ASSESSMENT OF THE PATIENT'S PROGRESS AND
40 CONDITION.

41 2. HOUSING OR RESIDENTIAL PLACEMENT THAT PROVIDES THE PATIENT WITH
42 STABLE, SAFE AND, IF NECESSARY, SECURE RESIDENCE TO ENHANCE COMPLIANCE
43 WITH THE TREATMENT PLAN AND PROTECT THE SAFETY OF THE PATIENT AND THE
44 PUBLIC.

45 3. SAFE, RELIABLE AND ADEQUATE TRANSPORTATION FOR THE PATIENT TO
46 SUCCESSFULLY COMPLY WITH THE TREATMENT PLAN.