



ARIZONA STATE SENATE
Fifty-Sixth Legislature, Second Regular Session

FACT SHEET FOR H.B. 2744

involuntary treatment; guardians; agents; rights

Purpose

Outlines rights of guardians and agents who have prescribed decision making authority for a patient in any proceeding involving court ordered treatment of the patient. Allows a guardian to file a petition for court ordered evaluation and treatment, and to submit reports to the court regarding a patient's compliance with the original order for treatment.

Background

If the court finds by clear and convincing evidence that a patient, as a result of a mental disorder, is a danger to self or others or has a persistent, acute or grave disability and is in need of treatment but is either unwilling or unable to accept voluntary treatment, the court must order the patient to undergo: 1) treatment in a program of outpatient treatment; 2) treatment in a program consisting of combined inpatient and outpatient treatment; or 3) inpatient treatment in a mental health treatment agency in a hospital as specified. If there is a court order for treatment and a guardianship with additional mental health authority existing at the same time, the treatment and placement decisions made by the treatment agency assigned by the court to supervise and administer the patient's treatment program pursuant to the court order for treatment are controlling unless the court orders otherwise ([A.R.S. § 36-540](#)).

Mental disorder is a substantial disorder of a person's emotional processes, thought, cognition or memory and is distinguished from: 1) conditions that are primarily those of drug abuse, alcoholism or intellectual disability, unless the person has a mental disorder; 2) the declining mental abilities that directly accompany impending death; and 3) character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder ([A.R.S. § 36-501](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Grants guardians and agents who have prescribed decision making authority for a patient, in any proceedings involving involuntary treatment of the patient, the right to:
 - a) be notified of any petition for treatment, motion for amended court order, application for continued court-ordered treatment and request for judicial review;
 - b) provide a court with the guardian's or agent's position regarding sought relief in any of the proceedings as well as relevant information to help the court make a determination, if allowed by the court;

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- c) provide relevant information to any agency providing inpatient or outpatient screening, evaluation or treatment to the patient; and
 - d) participate, as appropriate, in treatment and discharge planning with the inpatient or outpatient treatment providers.
2. Allows a parent, spouse or guardian of a person to directly file a petition for court-ordered evaluation with the court, as prescribed, and stipulates that the petition:
 - a) does not need to comply with application and prescreening requirements; and
 - b) must include a certificate executed by a physician, clinical psychologist or psychiatric nurse stating that the health professional examined the person subject to the petition within the last 48 hours, finds that the person appears to meet the criteria for involuntary evaluation and the observations on which the conclusion is based.
 3. Requires a petitioner to serve a copy of the petition, affidavits in support of the petition and the notice of hearing on any guardian identified in the petition at least two calendar days before the hearing.
 4. Allows a guardian, in lieu of personal service, to provide a written acknowledgement that the guardian has received the documents.
 5. Specifies that a petitioner's failure to serve a guardian is not grounds for petition dismissal.
 6. Allows a patient's guardian, during any period of the patient's outpatient treatment, to file a report with the court that addresses whether:
 - a) the patient is complying with the terms of the order;
 - b) the outpatient treatment plan is still appropriate; and
 - c) the patient needs inpatient treatment.
 7. Requires the court to set a conference or hearing if, after reviewing the report, it determines the patient is not complying with the original order for treatment or that the outpatient treatment plan is no longer appropriate.
 8. Makes technical and conforming changes.
 9. Becomes effective on the general effective date.

House Action

HHS	2/15/24	DP	9-1-0-0
3 rd Read	2/26/24		45-11-3-0-1

Prepared by Senate Research
March 8, 2024
MM/KS/slp