

Senate Engrossed

mental health evaluations; information; consent.

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# SENATE BILL 1309

AN ACT

AMENDING SECTIONS 36-514, 36-520, 36-522, 36-523, 36-530 AND 36-533,  
ARIZONA REVISED STATUTES; 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. Section 36-514, Arizona Revised Statutes, is amended to  
3 read:

4 36-514. Visitation; telephone; correspondence; religious  
5 freedom; legal residence

6 A. Every person WHO IS detained for evaluation or treatment  
7 pursuant to this chapter shall have the following additional rights:

8 1. To be visited by the person's personal physician or other health  
9 care professional, guardian, agent appointed pursuant to chapter 32 of  
10 this title, attorney and clergyman or any other person, subject to  
11 reasonable limitations as the individual in charge of the agency may  
12 direct.

13 2. To have reasonable access to telephones between the hours of  
14 9:00 a.m. and 9:00 p.m. to make and receive confidential calls. In  
15 addition, a person who is confined pursuant to this title is allowed to  
16 make two completed local telephone calls within two hours ~~of~~ AFTER initial  
17 confinement. Long-distance calls are allowed if the patient can pay the  
18 agency for them or can properly charge them to another number. The agency  
19 may restrict the telephone privileges of a patient if it is notified by  
20 the person receiving the calls that the person is being harassed by the  
21 calls and wishes them curtailed or halted. Restriction of telephone  
22 privileges shall be entered into the patient's clinical record and the  
23 information in the record shall be made available on request to the person  
24 and that person's attorney, guardian or agent appointed pursuant to  
25 chapter 32 of this title.

26 3. To be furnished with reasonable amounts of stationery and  
27 postage and to be ~~permitted~~ ALLOWED to correspond by mail without  
28 censorship with any person.

29 4. To enjoy religious freedom and the right to continue the  
30 practice of the person's religion in accordance with its tenets during the  
31 detainment, except that this right may not interfere with the operation of  
32 the agency.

33 B. COURT-ORDERED EVALUATION OR TREATMENT PURSUANT TO THIS CHAPTER  
34 DOES NOT OPERATE TO CHANGE THE LEGAL RESIDENCE OF A PATIENT.

35 Sec. 2. Section 36-520, Arizona Revised Statutes, is amended to  
36 read:

37 36-520. Application for evaluation; definition

38 A. Any responsible individual may apply for a court-ordered  
39 evaluation of a person who is alleged to be, as a result of a mental  
40 disorder, a danger to self or to others or a person with a persistent or  
41 acute disability or a grave disability and who is unwilling or unable to  
42 undergo a voluntary evaluation. The application shall be made in the  
43 prescribed form and manner as adopted by the director.

1 B. The application for evaluation shall include the following data,  
2 IF KNOWN:

3 1. The name, ~~and~~ and address ~~if known~~, of the proposed patient for  
4 whom evaluation is applied.

5 2. The age, date of birth, sex, race, marital status, occupation,  
6 social security number, present location, dates and places of previous  
7 hospitalizations, names and addresses of the guardian, AGENT UNDER A  
8 HEALTH CARE POWER OF ATTORNEY OR MENTAL HEALTH CARE POWER OF ATTORNEY,  
9 spouse, next of kin and significant other persons and other data that the  
10 director may require on the form to whatever extent that this data is  
11 known and is applicable to the proposed patient.

12 3. The name, address and relationship of the person who is applying  
13 for the evaluation.

14 4. A statement that the proposed patient IS EXHIBITING BEHAVIORS  
15 THAT MAY BE CONSISTENT WITH A MENTAL DISORDER AND is believed to be, as a  
16 result of a mental disorder, a danger to self or to others or a patient  
17 with a persistent or acute disability or a grave disability and the facts  
18 on which this statement is based.

19 5. A STATEMENT FROM THE APPLICANT OF WHETHER THE APPLICANT BELIEVES  
20 THAT THE PROPOSED PATIENT IS OR IS NOT WILLING OR ABLE TO UNDERGO  
21 VOLUNTARY EVALUATION AND THE FACTS ON WHICH THIS STATEMENT IS BASED.

22 6. A STATEMENT OF THE PROPOSED PATIENT'S RELEVANT HISTORY OF MENTAL  
23 HEALTH DIAGNOSIS, TREATMENT RECOMMENDED OR PROVIDED AND COMPLIANCE WITH  
24 THE TREATMENT RECOMMENDED OR PROVIDED.

25 ~~5.~~ 7. A statement that the applicant believes the proposed patient  
26 is in need of SCREENING, EVALUATION, supervision, care and treatment and  
27 the facts on which this statement is based.

28 8. COPIES OF ALL DOCUMENTS RELATING TO GUARDIANSHIP OR POWERS OF  
29 ATTORNEY THAT ALLOW THE GUARDIAN OR AGENT TO CONSENT TO INPATIENT  
30 PSYCHIATRIC TREATMENT, WHICH SHALL BE ATTACHED TO THE APPLICATION IF  
31 AVAILABLE AT THE TIME OF THE APPLICATION.

32 9. A STATEMENT BY THE APPLICANT OF WHETHER THE APPLICANT BELIEVES  
33 THAT, WITHOUT A PERIOD OF INPATIENT OBSERVATION, STABILIZATION AND  
34 ASSESSMENT, OR EMERGENCY INPATIENT PSYCHIATRIC HOSPITALIZATION, THE  
35 PROPOSED PATIENT IS LIKELY TO CAUSE OR ENDURE SERIOUS PHYSICAL HARM OR  
36 INJURY AND THE FACTS SUPPORTING THAT STATEMENT.

37 10. TO THE EXTENT KNOWN, THE NAMES AND CONTACT INFORMATION OF  
38 PERSONS OTHER THAN THE APPLICANT WHO HAVE WITNESSED THE BEHAVIOR EXHIBITED  
39 BY THE PROPOSED PATIENT ON WHICH THE APPLICATION IS BASED. THE SCREENING  
40 AGENCY MAY NOT DENY OR REFUSE TO PROCESS AN APPLICATION BECAUSE NO OTHER  
41 WITNESSES HAVE BEEN IDENTIFIED.

42 C. The application shall be signed and notarized. FOR AN  
43 APPLICATION MADE BY A PEACE OFFICER OR A HEALTH CARE PROFESSIONAL WHO IS  
44 LICENSED PURSUANT TO TITLE 32, CHAPTER 13, 15, 17 OR 19.1, A COPY OF THE  
45 APPLICATION THAT CONTAINS THE APPLICANT'S ORIGINAL SIGNATURE IS

1 ACCEPTABLE, DOES NOT HAVE TO BE NOTARIZED AND MAY BE SUBMITTED AS THE  
2 WRITTEN APPLICATION.

3 D. The screening agency shall offer assistance to the applicant in  
4 preparation of the application. On receipt of the application, the  
5 screening agency shall IMMEDIATELY NOTE ON THE FRONT OF THE APPLICATION  
6 THE TIME AND DATE OF RECEIPT, SHALL LOG THIS INFORMATION IN A RECORD OF  
7 APPLICATIONS RECEIVED BY THE SCREENING AGENCY AND SHALL act as prescribed  
8 in section 36-521 within forty-eight hours ~~of~~ AFTER the filing of the  
9 application, excluding weekends and holidays. If the application is not  
10 acted ~~upon~~ ON within forty-eight hours, the reasons for not acting  
11 promptly shall be reviewed by the director of the screening agency or the  
12 director's designee AND THE REASONS SHALL BE STATED IN THE REPORT REQUIRED  
13 BY SECTION 36-521, SUBSECTION B.

14 E. If the applicant for the court-ordered evaluation presents the  
15 person to be evaluated at the screening agency, the agency shall conduct a  
16 prepetition screening examination. Except in the case of an emergency  
17 evaluation, the person to be evaluated shall not be detained or forced to  
18 undergo prepetition screening against the person's will.

19 F. IN THE COURSE OF CONDUCTING A PREPETITION SCREENING, THE  
20 SCREENING AGENCY SHALL ACCEPT AND CONSIDER INFORMATION RELEVANT TO THE  
21 PRESENT BEHAVIOR AND PAST BEHAVIORAL HEALTH HISTORY OF THE PROPOSED  
22 PATIENT FROM PERSONS WHO HAVE A SIGNIFICANT RELATIONSHIP WITH THE PROPOSED  
23 PATIENT, INCLUDING FAMILY MEMBERS AND GUARDIANS.

24 ~~F.~~ G. If the applicant for the court-ordered evaluation does not  
25 present the person to be evaluated at the screening agency, the agency  
26 shall conduct the prepetition screening at the home of the person to be  
27 evaluated or any other place the person to be evaluated is found. If  
28 prepetition screening is not possible, the screening agency shall proceed  
29 as PRESCRIBED in section 36-521, subsection B.

30 ~~G.~~ H. If a person is being treated by prayer or spiritual means  
31 alone in accordance with the tenets and practices of a recognized church  
32 or religious denomination by a duly accredited practitioner of that church  
33 or denomination, ~~such~~ THE person may not be ordered evaluated, detained or  
34 involuntarily treated unless the court has determined that the person is,  
35 as a result of mental disorder, a danger to others or to self.

36 ~~H. Court-ordered evaluation or treatment pursuant to this chapter~~  
37 ~~does not operate to change the legal residence of a patient.~~

38 I. If the application is not acted on because it has been  
39 determined that the proposed patient does not need an evaluation, the  
40 agency after a period of six months shall destroy the application and any  
41 other evidence of the application.

42 J. For the purposes of this section, "person" includes a person  
43 who:

- 44 1. Is under eighteen years of age.

1           2. Has been transferred to the criminal division of the superior  
2 court pursuant to section 8-327 or who has been charged with an offense  
3 pursuant to section 13-501.

4           3. Is under the supervision of an adult probation department.

5           Sec. 3. Section 36-522, Arizona Revised Statutes, is amended to  
6 read:

7           36-522. Voluntary evaluations; consent; failure to complete;  
8 definitions

9           A. On receipt of an application for court-ordered evaluation, if  
10 the petition for court-ordered evaluation is not filed because it has been  
11 determined that the proposed patient will voluntarily receive an  
12 evaluation and is unlikely to present a danger to self or others until the  
13 voluntary evaluation, the evaluation agency provided for by the county, or  
14 a licensed behavioral health provider selected by the proposed patient,  
15 shall be immediately notified by the evaluation agency and shall provide a  
16 voluntary evaluation of the proposed patient at a scheduled time and place  
17 within ten days after the notice. The voluntary evaluation may be on an  
18 inpatient or outpatient basis and on completion shall be immediately  
19 delivered to the evaluation agency provided for by the county. The  
20 evaluation agency provided for by the county shall confirm receipt of the  
21 voluntary evaluation. If the voluntary evaluation recommends that the  
22 patient receive a court-ordered evaluation, the recommendation must be  
23 accompanied with an application for court-ordered evaluation.

24           B. Voluntary inpatient evaluation is subject to article 3 of this  
25 chapter. **INFORMED CONSENT FOR VOLUNTARY INPATIENT EVALUATION MAY BE**  
26 **GRANTED BY THE PERSON, THE PERSON'S COURT-APPOINTED GUARDIAN WITH**  
27 **INPATIENT AUTHORITY OR THE PERSON'S DESIGNATED AGENT PURSUANT TO A POWER**  
28 **OF ATTORNEY THAT INCLUDES AUTHORITY TO CONSENT TO INPATIENT EVALUATION OR**  
29 **TREATMENT.**

30           C. Voluntary outpatient evaluation shall conform to the  
31 requirements of section 36-530, subsection D and section 36-531,  
32 subsections B, C and D and shall proceed only after the person to be  
33 evaluated has given consent to be evaluated by signing a form prescribed  
34 by the director that includes information to the proposed patient that the  
35 patient-physician privilege does not apply and that the **VOLUNTARY**  
36 **OUTPATIENT** evaluation may result in a petition for the person to undergo  
37 court-ordered treatment or for guardianship. **INFORMED CONSENT FOR**  
38 **VOLUNTARY OUTPATIENT EVALUATION MAY BE GRANTED BY THE PERSON, THE PERSON'S**  
39 **COURT-APPOINTED GUARDIAN OR THE PERSON'S DESIGNATED AGENT PURSUANT TO A**  
40 **POWER OF ATTORNEY THAT INCLUDES AUTHORITY TO CONSENT TO EVALUATION OR**  
41 **TREATMENT.**

42           D. If the person who requested a voluntary evaluation does not  
43 appear or does not complete the appointments scheduled, the evaluation  
44 agency provided for by the county shall be immediately notified by the  
45 provider who was to conduct the **VOLUNTARY** evaluation. The evaluation

1 agency shall then provide prepetition screening of the application for  
2 court-ordered evaluation in accordance with sections 36-521 and 36-521.01.

3 E. For the purposes of this section:

4 1. "Licensed behavioral health provider" means any of the  
5 following:

6 (a) A person who is licensed pursuant to title 32, chapter 33 and  
7 whose scope of practice allows the person to either:

8 (i) Independently engage in the practice of behavioral health.

9 (ii) Except for a licensed substance abuse technician, engage in  
10 the practice of behavioral health under direct supervision.

11 (b) A psychiatrist.

12 (c) A psychologist who is licensed pursuant to title 32, chapter  
13 19.1.

14 (d) A registered nurse practitioner who is licensed pursuant to  
15 title 32, chapter 15 and who is certified as an adult psychiatric and  
16 mental health nurse.

17 2. "Practice of behavioral health" has the same meaning prescribed  
18 in section 32-3251.

19 Sec. 4. Section 36-523, Arizona Revised Statutes, is amended to  
20 read:

21 36-523. Petition for evaluation

22 A. The petition for evaluation shall contain the following:

23 1. The name, address and interest in the case of the individual who  
24 applied for the petition.

25 2. The name, and address if known, of the proposed patient for whom  
26 evaluation is petitioned.

27 3. The present whereabouts of the proposed patient, if known.

28 4. A statement alleging that there is reasonable cause to believe  
29 that the proposed patient has a mental disorder and is as a result a  
30 danger to self or others, has a persistent or acute disability or a grave  
31 disability and is unwilling or unable to undergo voluntary evaluation.

32 5. A summary of the facts that support the allegations that the  
33 proposed patient is dangerous, has a persistent or acute disability or a  
34 grave disability and is unwilling or unable to be voluntarily evaluated,  
35 including the facts that brought the proposed patient to the screening  
36 agency's attention.

37 6. If the petition is filed by a prosecutor pursuant to section  
38 13-4517, any known criminal history of the proposed patient, including  
39 whether the proposed patient has ever been found incompetent to stand  
40 trial pursuant to section 13-4510.

41 7. A statement of any facts and circumstances that lead the  
42 petitioner to believe that the proposed patient may be safely transported  
43 to the evaluation agency by an authorized transporter, if available in the  
44 jurisdiction, without the assistance of a peace officer.

1           8. THE PETITION SHALL STATE THE NAMES AND CONTACT INFORMATION OF  
2 ANY PERSONS KNOWN WHO WITNESSED THE BEHAVIOR EXHIBITED BY THE PROPOSED  
3 PATIENT ON WHICH THE PETITION IS BASED. THE AGENCY MAY NOT DECLINE TO  
4 PROCESS A PETITION FOR COURT-ORDERED EVALUATION BECAUSE NO WITNESSES  
5 ACQUAINTED WITH THE PROPOSED PATIENT HAVE BEEN IDENTIFIED.

6           ~~8.~~ 9. Other information that the director by rule or the court by  
7 rule or order may require.

8           B. The petition shall request that the court issue an order  
9 requiring that the proposed patient be given an evaluation and shall  
10 advise the court of both of the following:

11           1. That the opinion of the petitioner is either that the proposed  
12 patient is or is not in such a condition that without immediate or  
13 continuing hospitalization the patient is likely to suffer serious  
14 physical harm or further deterioration or inflict serious physical harm on  
15 another person.

16           2. If the opinion of the petitioner is that the proposed patient is  
17 not in the condition described in paragraph 1 of this subsection, that the  
18 opinion of the petitioner is either that the evaluation should or should  
19 not take place on an outpatient basis.

20           C. The petition for evaluation shall be accompanied by the  
21 application for evaluation, by the recommendation of the county attorney  
22 pursuant to section 36-521 and by a prepetition screening report, unless  
23 the documents have not been prepared under a provision of law or in  
24 accordance with an order of the court. The petition for evaluation shall  
25 also be accompanied by a copy of the application for emergency admission  
26 if one exists.

27           D. A petition and other forms required in a court may be filed only  
28 by the screening agency that has prepared the petition.

29           E. If the petition is not filed because it has been determined that  
30 the person does not need an evaluation, the agency after a period of six  
31 months shall destroy the petition and the various reports annexed to the  
32 petition as required by this section.

33           F. If the petition is not filed because it has been determined that  
34 the person does not need an evaluation and a prosecutor filed a petition  
35 pursuant to section 13-4517, the person shall be remanded for a  
36 disposition pursuant to section 13-4517. If the person is out of custody,  
37 the court may order that the person be taken into custody for a  
38 disposition pursuant to this section.

39           Sec. 5. Section 36-530, Arizona Revised Statutes, is amended to  
40 read:

41           36-530. Evaluation and treatment

42           A. A person WHO IS admitted to an evaluation agency shall receive  
43 an evaluation as soon as possible after the court's order for evaluation  
44 and, subject to the provisions of sections 36-512 and 36-513 concerning  
45 the person's right to refuse treatment, receive care and treatment as

1 required by ~~his~~ THE PERSON'S condition for the full period that ~~he~~ THE  
2 PERSON is hospitalized. A clinical record shall be kept for each person  
3 ~~which~~ THAT details all medical and psychiatric evaluations and all care  
4 and treatment received by the person.

5 B. A person receiving an evaluation on an inpatient basis will  
6 remain in the facility during the evaluation, which shall be completed in  
7 less than seventy-two hours.

8 C. A person being evaluated on an outpatient basis will not remain  
9 in the facility overnight but will be examined during the usual outpatient  
10 working hours of the facility on a schedule of appointments. The  
11 evaluation will be completed not later than the fourth day after the first  
12 appointment, excluding Saturdays, Sundays and holidays.

13 D. If a person who has been directed by court order to appear for  
14 evaluation does not appear, or in the case of an outpatient evaluation  
15 does not complete the appointments scheduled, the evaluation agency shall  
16 notify the court and the person's guardian, if any, of the known facts and  
17 circumstances and, if appropriate, request that the court order the  
18 patient taken into custody for evaluation on an inpatient basis.

19 E. IN THE COURSE OF CONDUCTING AN EVALUATION, THE EVALUATION AGENCY  
20 SHALL SOLICIT, ACCEPT AND CONSIDER INFORMATION RELEVANT TO THE PRESENT  
21 BEHAVIOR AND PAST BEHAVIORAL HEALTH HISTORY OF THE PROPOSED PATIENT FROM  
22 PERSONS KNOWN TO THE AGENCY WHO HAVE A SIGNIFICANT RELATIONSHIP WITH THE  
23 PROPOSED PATIENT, INCLUDING FAMILY MEMBERS AND GUARDIANS.

24 Sec. 6. Section 36-533, Arizona Revised Statutes, is amended to  
25 read:

26 36-533. Petition for treatment

27 A. The petition for court-ordered treatment shall allege:

28 1. That the patient is in need of a period of treatment because the  
29 patient, as a result of mental disorder, is a danger to self or to others  
30 or has a persistent or acute disability or a grave disability.

31 2. The treatment alternatives that are appropriate or available.

32 3. That the patient is unwilling to accept or incapable of  
33 accepting treatment voluntarily.

34 B. The petition shall be accompanied by the affidavits of the two  
35 physicians who participated in the evaluation and by the affidavit of the  
36 applicant for the evaluation, if any. In a county with a population of  
37 less than five hundred thousand persons, the petition may be accompanied  
38 by the affidavits of one physician and either one physician assistant who  
39 is experienced in psychiatric matters or one psychiatric and mental health  
40 nurse practitioner who conducted an independent evaluation and by the  
41 affidavit of the applicant for the evaluation, if any. The affidavits of  
42 the physicians or other health professionals shall describe in detail the  
43 behavior that indicates that the person, as a result of mental disorder,  
44 is a danger to self or to others or has a persistent or acute disability  
45 or a grave disability and shall be based on the physician's or other



1 health professional's observations of the patient and study of information  
2 about the patient. A summary of the facts that support the allegations of  
3 the petition shall be included. The affidavit shall also include any of  
4 the results of the physical examination of the patient if relevant to the  
5 patient's psychiatric condition.

6 C. The petition shall request the court to issue an order requiring  
7 the person to undergo a period of treatment. If a prosecutor filed a  
8 petition pursuant to section 13-4517, the petition must be accompanied by  
9 any known criminal history of the person and any previous findings of  
10 incompetency.

11 D. IF THE PETITION REQUESTS THE COURT TO DETERMINE THAT THE PATIENT  
12 IS CHRONICALLY RESISTANT TO TREATMENT PURSUANT TO SECTION 36-550.09, THE  
13 PETITION SHALL ALLEGE THE FACTS THAT SUPPORT THE REQUEST.

14 ~~D.~~ E. The petition shall also include:

15 1. A statement that in the opinion of the petitioner the person  
16 does or does not require guardianship or conservatorship, or both, under  
17 title 14 and the reasons on which the statement is based.

18 2. A request that the court order an independent investigation and  
19 report for the court if in the opinion of the petitioner the person does  
20 require guardianship or conservatorship, or both.

21 3. A statement that in the opinion of the petitioner the person  
22 does or does not require temporary guardianship or conservatorship, or  
23 both, and the reasons on which the statement is based.

24 4. A request that the court appoint a temporary guardian or  
25 conservator, or both, if in the opinion of the petitioner the person does  
26 require temporary guardianship or conservatorship, or both.

27 5. If the person has an existing guardian, a statement identifying  
28 the existing guardian and a request that the court consider imposing  
29 additional duties on the existing guardian pursuant to section 14-5312.01.

30 ~~E.~~ F. If the petition contains a request for court action pursuant  
31 to subsection ~~D.~~ E of this section, a copy of the petition shall be mailed  
32 to any person or agency that is nominated as guardian or conservator or  
33 the person who is identified as an existing guardian.

34 ~~F.~~ G. A copy of all petitions shall be mailed to the  
35 superintendent of the Arizona state hospital.

36 ~~G.~~ H. On the filing of a petition for court-ordered treatment, if  
37 the patient is not detained in an evaluation agency when the petition is  
38 filed, the petition shall contain a statement of any facts and  
39 circumstances that lead the petitioner to believe that the proposed  
40 patient may be safely transported to the evaluation agency pursuant to  
41 section 36-535 by an authorized transporter, if available in the  
42 jurisdiction, without the assistance of a peace officer.