

Senate Engrossed

evaluation agencies; hearings; witnesses

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SENATE BILL 1354

AN ACT

AMENDING SECTION 36-539, ARIZONA REVISED STATUTES; RELATING TO
COURT-ORDERED TREATMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-539, Arizona Revised Statutes, is amended to
3 read:

4 36-539. Conduct of hearing; record; transcript

5 A. The medical director of the evaluation agency shall issue
6 instructions to the physicians or the psychiatric and mental health nurse
7 practitioner of the evaluation agency who is treating the proposed patient
8 to take all reasonable precautions to ensure that at the time of the
9 hearing the proposed patient is not so under the influence of or does not
10 so suffer the effects of drugs, medication or other treatment as to be
11 hampered in preparing for or participating in the hearing. If the
12 proposed patient is being treated as an inpatient by the evaluation
13 agency, the court at the time of the hearing shall be presented a record
14 of all drugs, medication or other treatment that the person has received
15 during the seventy-two hours immediately before the hearing.

16 B. The patient and the patient's attorney shall be present at all
17 hearings, and the patient's attorney may subpoena and cross-examine
18 witnesses and present evidence. The patient may choose to not attend the
19 hearing or the patient's attorney may waive the patient's presence. The
20 evidence presented by the petitioner or the patient shall include the
21 testimony of two or more witnesses, REGARDLESS OF THE WITNESSES'
22 PROFESSIONAL LICENSURE, IF ANY, WHO OBSERVED OR WERE acquainted with the
23 patient at the time of the alleged mental disorder, ~~which~~ BEFORE THE
24 SUBMISSION OF THE CURRENT APPLICATION FOR EVALUATION PURSUANT TO SECTION
25 36-520 OR, IF AFTER THE SUBMISSION OF THE CURRENT APPLICATION, WHO WERE
26 NOT FORMAL PARTICIPANTS IN THE EVALUATION PROCESS. THE TESTIMONY OF THE
27 WITNESSES SHALL BE LIMITED TO OBSERVED FACTS AND MAY NOT INCLUDE EXPERT
28 OPINION OR CONCLUSIONS. THE WITNESS TESTIMONY may be satisfied by a
29 statement agreed on by the parties, ~~and~~ and testimony of the two physicians
30 or other health professionals who participated in the evaluation of the
31 patient pursuant to section 36-533, which may be satisfied by stipulating
32 to the admission of the affidavits as required pursuant to section 36-533,
33 subsection B. The evaluating physicians or other health professionals
34 shall testify as to their personal observations of the patient. They
35 shall also testify as to their opinions concerning whether the patient is,
36 as a result of mental disorder, a danger to self or to others or has a
37 persistent or acute disability or a grave disability and as to whether the
38 patient requires treatment. Such testimony shall state specifically the
39 nature and extent of the danger to self or to others, the persistent or
40 acute disability or the grave disability. If the patient has a grave
41 disability, the evaluating physicians or other health professionals shall
42 testify concerning the need for guardianship or conservatorship, or both,
43 and whether or not the need is for immediate appointment. Other persons
44 who have participated in the evaluation of the patient or, if further
45 treatment was requested by a mental health treatment agency, persons of

1 that agency who are directly involved in the care of the patient shall
2 testify at the request of the court or of the patient's
3 attorney. Witnesses shall testify as to placement alternatives
4 appropriate and available for the care and treatment of the patient. The
5 clinical record of the patient for the current admission shall be
6 available and may be presented in full or in part as evidence at the
7 request of the court, the county attorney or the patient's attorney.

8 C. If the patient, for medical or psychiatric reasons, is unable to
9 be present at the hearing and cannot appear by other reasonably feasible
10 means, the court shall require clear and convincing evidence that the
11 patient is unable to be present at the hearing and on such a finding may
12 proceed with the hearing in the patient's absence.

13 D. The requirements of subsection B of this section are in addition
14 to all rules of evidence and the Arizona rules of civil procedure, not
15 inconsistent with subsection B of this section.

16 E. A verbatim record of all proceedings under this section shall be
17 made by stenographic means by a court reporter if a written request for a
18 court reporter is made by any party to the proceedings at least
19 twenty-four hours in advance of such proceedings. If stenographic means
20 are not requested in the manner provided by this subsection, electronic
21 means shall be directed by the presiding judge. The stenographic notes or
22 electronic tape shall be retained as provided by statute.

23 F. A patient who has been ordered to undergo treatment may request
24 a certified transcript of the hearing. To obtain a copy, the patient
25 shall pay for a transcript or shall file an affidavit that the patient is
26 without means to pay for a transcript. If the affidavit is found true by
27 the court, the expense of the transcript is a charge on the county in
28 which the proceedings were held, or, if an intergovernmental agreement by
29 the counties has required evaluation in a county other than that of the
30 patient's residence, such expense may be charged to the county of the
31 patient's residence or in which the patient was found before evaluation.