

House Engrossed

inpatient treatment days; computation; exclusion

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

**CHAPTER 214**

**HOUSE BILL 2944**

AN ACT

AMENDING SECTIONS 36-540 AND 36-541, 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 36-540, Arizona Revised Statutes, is amended to  
3 read:

4 36-540. Court options; immunity; rules

5 A. If the court finds by clear and convincing evidence that the  
6 proposed patient, as a result of mental disorder, is a danger to self, is  
7 a danger to others or has a persistent or acute disability or a grave  
8 disability and is in need of treatment, and is either unwilling or unable  
9 to accept voluntary treatment, the court shall order the patient to  
10 undergo one of the following:

11 1. Treatment in a program of outpatient treatment.

12 2. Treatment in a program consisting of combined inpatient and  
13 outpatient treatment.

14 3. Inpatient treatment in a mental health treatment agency, in a  
15 hospital operated by or under contract with the United States department  
16 of veterans affairs to provide treatment to eligible veterans pursuant to  
17 article 9 of this chapter, in the state hospital or in a private hospital,  
18 if the private hospital agrees, subject to the limitations of section  
19 36-541.

20 B. The court shall consider all available and appropriate  
21 alternatives for the treatment and care of the patient. The court shall  
22 order the least restrictive treatment alternative available.

23 C. The court may order the proposed patient to undergo outpatient  
24 or combined inpatient and outpatient treatment pursuant to subsection A,  
25 paragraph 1 or 2 of this section if the court:

26 1. Determines that all of the following apply:

27 (a) The patient does not require continuous inpatient  
28 hospitalization.

29 (b) The patient will be more appropriately treated in an outpatient  
30 treatment program or in a combined inpatient and outpatient treatment  
31 program.

32 (c) The patient will follow a prescribed outpatient treatment plan.

33 (d) The patient will not likely become dangerous or suffer more  
34 serious physical harm or serious illness or further deterioration if the  
35 patient follows a prescribed outpatient treatment plan.

36 2. Is presented with and approves a written treatment plan that  
37 conforms with the requirements of section 36-540.01, subsection B. If the  
38 court determines that the patient meets the requirements of section  
39 36-550.09, the court may order the patient to be placed in a secure  
40 behavioral health residential facility that is licensed by the department  
41 pursuant to section 36-425.06. If the treatment plan presented to the  
42 court pursuant to this subsection provides for supervision of the patient  
43 under court order by a mental health agency that is other than the mental  
44 health agency that petitioned or requested the county attorney to petition  
45 the court for treatment pursuant to section 36-531, the treatment plan

1 must be approved by the medical director of the mental health agency that  
2 will supervise the treatment pursuant to subsection E of this section.

3 D. An order to receive treatment pursuant to subsection A,  
4 paragraph 1 or 2 of this section shall not exceed three hundred sixty-five  
5 days. The period of inpatient treatment under a combined treatment order  
6 pursuant to subsection A, paragraph 2 of this section shall not exceed the  
7 maximum period allowed for an order for inpatient treatment pursuant to  
8 subsection F of this section.

9 E. If the court enters an order for treatment pursuant to  
10 subsection A, paragraph 1 or 2 of this section, all of the following  
11 apply:

12 1. The court shall designate the medical director of the mental  
13 health treatment agency that will supervise and administer the patient's  
14 treatment program.

15 2. The medical director shall not use the services of any person,  
16 agency or organization to supervise a patient's outpatient treatment  
17 program unless the person, agency or organization has agreed to provide  
18 these services in the individual patient's case and unless the department  
19 has determined that the person, agency or organization is capable and  
20 competent to do so.

21 3. The person, agency or organization assigned to supervise an  
22 outpatient treatment program or the outpatient portion of a combined  
23 treatment program shall be notified at least three days before a referral.  
24 The medical director making the referral and the person, agency or  
25 organization assigned to supervise the treatment program shall share  
26 relevant information about the patient to provide continuity of treatment.

27 4. The court may order the medical director to provide notice to  
28 the court of any noncompliance with the terms of a treatment order.

29 5. During any period of outpatient treatment under subsection A,  
30 paragraph 2 of this section, if the court, on its own motion, on request  
31 of a guardian pursuant to paragraph 7 of this subsection or on motion by  
32 the medical director of the patient's outpatient mental health treatment  
33 facility, determines that the patient is not complying with the terms of  
34 the order or that the outpatient treatment plan is no longer appropriate  
35 and the patient needs inpatient treatment, the court, without a hearing  
36 and based on the court record, the patient's medical record, the  
37 affidavits and recommendations of the medical director, and the advice of  
38 staff and physicians or the psychiatric and mental health nurse  
39 practitioner familiar with the treatment of the patient, may enter an  
40 order amending its original order. The amended order may alter the  
41 outpatient treatment plan or order the patient to inpatient treatment  
42 pursuant to subsection A, paragraph 3 of this section. The amended order  
43 shall not increase the total period of commitment originally ordered by  
44 the court or, when added to the period of inpatient treatment provided by  
45 the original order and any other amended orders, exceed the maximum period

1 allowed for an order for inpatient treatment pursuant to subsection F of  
2 this section. If the patient refuses to comply with an amended order for  
3 inpatient treatment, the court, on its own motion or on the request of the  
4 medical director, may authorize and direct a peace officer to take the  
5 patient into protective custody and transport the patient to the agency  
6 for inpatient treatment. Any authorization, directive or order issued to  
7 a peace officer to take the patient into protective custody shall include  
8 the patient's criminal history and the name and telephone numbers of the  
9 patient's case manager, guardian, spouse, next of kin or significant  
10 other, as applicable. When reporting to or being returned to a treatment  
11 agency for inpatient treatment pursuant to an amended order, the patient  
12 shall be informed of the patient's right to judicial review and the  
13 patient's right to consult with counsel pursuant to section 36-546.

14 6. During any period of outpatient treatment under subsection A,  
15 paragraph 2 of this section, if the medical director of the outpatient  
16 treatment facility in charge of the patient's care determines, in concert  
17 with the medical director of an inpatient mental health treatment facility  
18 who has agreed to accept the patient, that the patient is in need of  
19 immediate acute inpatient psychiatric care because of behavior that is  
20 dangerous to self or to others, the medical director of the outpatient  
21 treatment facility may order a peace officer to apprehend and transport  
22 the patient to the inpatient treatment facility pending a court  
23 determination on an amended order under paragraph 5 of this subsection.  
24 The patient may be detained and treated at the inpatient treatment  
25 facility for a period of not more than forty-eight hours, exclusive of  
26 weekends and holidays, from the time that the patient is taken to the  
27 inpatient treatment facility. The medical director of the outpatient  
28 treatment facility shall file the motion for an amended court order  
29 requesting inpatient treatment not later than the next working day  
30 following the patient being taken to the inpatient treatment facility.  
31 Any period of detention within the inpatient treatment facility pending  
32 issuance of an amended order shall not increase the total period of  
33 commitment originally ordered by the court or, when added to the period of  
34 inpatient treatment provided by the original order and any other amended  
35 orders, exceed the maximum period allowed for an order for inpatient  
36 treatment pursuant to subsection F of this section. If a patient is  
37 ordered to undergo inpatient treatment pursuant to an amended order, the  
38 medical director of the outpatient treatment facility shall inform the  
39 patient of the patient's right to judicial review and to consult with an  
40 attorney pursuant to section 36-546.

41 7. If there is a court order for treatment and a guardianship with  
42 additional mental health authority pursuant to section 14-5312.01 existing  
43 at the same time, the treatment and placement decisions made by the  
44 treatment agency assigned by the court to supervise and administer the  
45 patient's treatment program pursuant to the court order for treatment are

1 controlling unless the court orders otherwise. During any period of  
2 outpatient treatment, the guardian of a patient may file a report with the  
3 court that addresses whether the patient is complying with the terms of  
4 the order, whether the outpatient treatment plan is still appropriate and  
5 whether the patient needs inpatient treatment. The report shall state in  
6 detail the facts on which the guardian relies and may include other  
7 supporting documents. A copy of the report and other supporting documents  
8 shall be given to the patient's attorney and the outpatient treatment  
9 agency. After reviewing the report and any supporting documents filed  
10 with the report, if the court determines that there is reasonable cause to  
11 believe that the patient is not complying with the terms of the order,  
12 that the outpatient treatment plan is no longer appropriate or that the  
13 patient needs inpatient treatment, the court must set a conference or a  
14 hearing or take other action described in paragraph 5 of this subsection.

15 F. The maximum periods of inpatient treatment that the court may  
16 order, subject to the limitations of section 36-541, [SUBSECTION D](#), are as  
17 follows:

- 18 1. Ninety days for a person found to be a danger to self.
- 19 2. One hundred eighty days for a person found to be a danger to  
20 others.
- 21 3. One hundred eighty days for a person found to have a persistent  
22 or acute disability.
- 23 4. Three hundred sixty-five days for a person found to have a grave  
24 disability.

25 G. If, on finding that the patient meets the criteria for  
26 court-ordered treatment pursuant to subsection A of this section, the  
27 court also finds that there is reasonable cause to believe that the  
28 patient is an incapacitated person as defined in section 14-5101 or is a  
29 person in need of protection pursuant to section 14-5401 and that the  
30 patient is or may be in need of guardianship or conservatorship, or both,  
31 the court may order an investigation concerning the need for a guardian or  
32 conservator, or both, and may appoint a suitable person or agency to  
33 conduct the investigation. The appointee may include a court-appointed  
34 guardian ad litem, an investigator appointed pursuant to section 14-5308  
35 or the public fiduciary if there is no person willing and qualified to act  
36 in that capacity. The court shall give notice of the appointment to the  
37 appointee within three days after the appointment. The appointee shall  
38 submit the report of the investigation to the court within twenty-one  
39 days. The report shall include recommendations as to who should be  
40 guardian or who should be conservator, or both, and a report of the  
41 findings and reasons for the recommendation. If the investigation and  
42 report so indicate, the court shall order the appropriate person to submit  
43 a petition to become the guardian or conservator, or both, of the patient.

44 H. In any proceeding for court-ordered treatment in which the  
45 petition alleges that the patient is in need of a guardian or conservator

1 and states the grounds for that allegation, the court may appoint an  
2 emergency temporary guardian or conservator, or both, for a specific  
3 purpose or purposes identified in its order and for a specific period of  
4 time not to exceed thirty days if the court finds that all of the  
5 following are true:

6 1. The patient meets the criteria for court-ordered treatment  
7 pursuant to subsection A of this section.

8 2. There is reasonable cause to believe that the patient is an  
9 incapacitated person as defined in section 14-5101 or is in need of  
10 protection pursuant to section 14-5401, paragraph 2.

11 3. The patient does not have a guardian or conservator and the  
12 welfare of the patient requires immediate action to protect the patient or  
13 the ward's property.

14 4. The conditions prescribed pursuant to section 14-5310,  
15 subsection B or section 14-5401.01, subsection B have been met.

16 I. The court may appoint as a temporary guardian or conservator  
17 pursuant to subsection H of this section a suitable person or the public  
18 fiduciary if there is no person qualified and willing to act in that  
19 capacity. The court shall issue an order for an investigation as  
20 prescribed pursuant to subsection G of this section and, unless the  
21 patient is represented by independent counsel, the court shall appoint an  
22 attorney to represent the patient in further proceedings regarding the  
23 appointment of a guardian or conservator. The court shall schedule a  
24 further hearing within fourteen days on the appropriate court calendar of  
25 a court that has authority over guardianship or conservatorship matters  
26 pursuant to this title to consider the continued need for an emergency  
27 temporary guardian or conservator and the appropriateness of the temporary  
28 guardian or conservator appointed, and shall order the appointed guardian  
29 or conservator to give notice to persons entitled to notice pursuant to  
30 section 14-5309, subsection A or section 14-5405, subsection A. The court  
31 shall authorize certified letters of temporary emergency guardianship or  
32 conservatorship to be issued on presentation of a copy of the court's  
33 order. If a temporary emergency conservator other than the public  
34 fiduciary is appointed pursuant to this subsection, the court shall order  
35 that the use of the monies and property of the patient by the conservator  
36 be restricted and not be sold, used, transferred or encumbered, except  
37 that the court may authorize the conservator to use monies or property of  
38 the patient specifically identified as needed to pay an expense to provide  
39 for the care, treatment or welfare of the patient pending further hearing.  
40 This subsection and subsection H of this section do not:

41 1. Prevent the evaluation or treatment agency from seeking  
42 guardianship and conservatorship in any other manner allowed by law at any  
43 time during the period of court-ordered evaluation and treatment.

1           2. Relieve the evaluation or treatment agency from its obligations  
2 concerning the suspected abuse of a vulnerable adult pursuant to title 46,  
3 chapter 4.

4           J. If, on finding that a patient meets the criteria for  
5 court-ordered treatment pursuant to subsection A of this section, the  
6 court also learns that the patient has a guardian appointed under title  
7 14, the court with notice may impose on the existing guardian additional  
8 duties pursuant to section 14-5312.01. If the court imposes additional  
9 duties on an existing guardian as prescribed in this subsection, the court  
10 may determine that the patient needs to continue treatment under a court  
11 order for treatment and may issue the order or determine that the  
12 patient's needs can be adequately met by the guardian with the additional  
13 duties pursuant to section 14-5312.01 and decline to issue the court order  
14 for treatment. If at any time after the issuance of a court order for  
15 treatment the court finds that the patient's needs can be adequately met  
16 by the guardian with the additional duties pursuant to section 14-5312.01  
17 and that a court order for treatment is no longer necessary to ensure  
18 compliance with necessary treatment, the court may terminate the court  
19 order for treatment.

20           K. The court shall file a report as part of the court record on its  
21 findings of alternatives for treatment.

22           L. Treatment shall not include psychosurgery, lobotomy or any other  
23 brain surgery without specific informed consent of the patient or the  
24 patient's legal guardian and an order of the superior court in the county  
25 in which the treatment is proposed, approving with specificity the use of  
26 the treatment.

27           M. The medical director or any person, agency or organization used  
28 by the medical director to supervise the terms of an outpatient treatment  
29 plan is not civilly liable for any acts committed by a patient while on  
30 outpatient treatment if the medical director, person, agency or  
31 organization has in good faith followed the requirements of this section.

32           N. A peace officer who in good faith apprehends and transports a  
33 patient to an inpatient treatment facility on the order of the medical  
34 director of the outpatient treatment facility pursuant to subsection E,  
35 paragraph 6 of this section is not subject to civil liability.

36           O. If a person has been found, as a result of a mental disorder, to  
37 constitute a danger to self or others or to have a persistent or acute  
38 disability or a grave disability and the court enters an order for  
39 treatment pursuant to subsection A of this section, the court shall  
40 transmit the person's name, sex, date of birth, social security number, if  
41 available, and date of the order for treatment to the supreme court. The  
42 supreme court shall transmit the information to the department of public  
43 safety to comply with the requirements of title 13, chapter 31 and title  
44 32, chapter 26. The department of public safety shall transmit the  
45 information to the national instant criminal background check system. The

1 superior court may access the information of a person who is ordered into  
2 treatment to enforce or facilitate a treatment order.

3 P. On request, the clerk of the court shall provide certified  
4 copies of the commitment order to a law enforcement or prosecuting agency  
5 that is investigating or prosecuting a prohibited possessor as defined in  
6 section 13-3101.

7 Q. If the court does not find a person to be in need of treatment  
8 and a prosecutor filed a petition pursuant to section 13-4517, the  
9 evaluation agency, within twenty-four hours, shall notify the prosecuting  
10 agency of its finding. The court shall order the medical director to  
11 detain the person for an additional twenty-four hours to allow the  
12 prosecuting agency to be notified. If the court has retained jurisdiction  
13 pursuant to section 13-4517, subsection C, the court may remand the person  
14 to the custody of the sheriff for further disposition pursuant to section  
15 13-4517, subsection A, paragraph 2 or 3.

16 R. After an order for treatment has been issued pursuant to this  
17 section, the superior court in a county where a patient under a court  
18 order for treatment is found or resides has concurrent jurisdiction with  
19 the court in the county that issued the court order for treatment for the  
20 purposes of enforcing the court order for treatment, ordering changes to  
21 the treatment plan or amending the order to require the patient to undergo  
22 further inpatient treatment. If the court in which proceedings are  
23 commenced to enforce or administer the order for treatment is not the  
24 court that originally entered the order for treatment, unless prevented by  
25 an emergency, the court in which the proceedings are pending shall consult  
26 with the court of original entry and determine whether to hold hearings  
27 and enter orders to facilitate enforcement or administration of the court  
28 order, whether to refer the case back to the court of original entry for  
29 further proceedings or whether to transfer the entire case to the court of  
30 original entry in that county for all further proceedings. The supreme  
31 court may adopt rules to govern the procedures to be used in enforcing and  
32 administering court orders for treatment in the various counties of this  
33 state and the transfer of cases between counties involving court orders  
34 for treatment.

35 S. Pursuant to the authority granted in subsection R of this  
36 section, for the purpose of enforcing or facilitating treatment of a  
37 patient under an active order for treatment, the supreme court shall adopt  
38 a rule to establish a program to enable the judges of the superior court,  
39 county attorneys, patients' attorneys, health care institutions as defined  
40 in section 36-401 that provide services subject to the emergency medical  
41 treatment and labor act ([P.L. 99-272](#); [100 STAT. 164](#); [42 United States Code](#)  
42 [section 1395dd](#)), the regional behavioral health authority and behavioral  
43 health service providers in any county to determine the existence of an  
44 active court order for treatment and the history of court orders for  
45 treatment entered for a patient by a superior court in any county in this



1 state. The program shall ensure that the information shared with other  
2 persons or entities is necessary only for the purposes stated in this  
3 subsection and shall require that the information shared be maintained as  
4 confidential by the receiving person or entity.

5 Sec. 2. Section 36-541, Arizona Revised Statutes, is amended to  
6 read:

7 36-541. Mandatory local treatment; placement at state  
8 hospital

9 A. A patient who is ordered by a court to undergo treatment and who  
10 is not hospitalized in the state hospital at the time of the order shall  
11 undergo treatment for at least twenty-five days in a local mental health  
12 treatment agency that is geographically convenient for the patient before  
13 being hospitalized in the state hospital. This section does not apply if  
14 the court finds, at a hearing on court-ordered treatment, that the  
15 patient's present condition and history demonstrate that the patient will  
16 not benefit from the required period of treatment in a local mental health  
17 treatment agency or that the state hospital provides a program that is  
18 specific to the needs of the patient and is unavailable in the local  
19 mental health treatment agency, or when there is no local mental health  
20 treatment agency readily available to the patient. Such a finding shall  
21 be based at least on the annual written description by the state hospital  
22 of programs and services available and appropriate written reports from  
23 the medical director of the local mental health treatment agency. The  
24 patient may be immediately hospitalized at the state hospital whenever the  
25 court determines that this section does not apply.

26 B. A patient who is ordered by a court to undergo treatment may be  
27 admitted for treatment if the patient is accepted by the superintendent of  
28 the state hospital for treatment at the state hospital or if the court  
29 orders placement at the state hospital pursuant to subsection A or C of  
30 this section.

31 C. During any period of court-ordered treatment, the medical  
32 director of the local mental health treatment agency assigned to supervise  
33 and administer the patient's treatment program may file a motion  
34 requesting the court to amend the treatment order to place the patient for  
35 treatment at the state hospital. After a hearing, if the court finds that  
36 the patient's present condition and history demonstrate that the patient  
37 will not benefit from a continued period of treatment in or by a local  
38 mental health treatment agency, either as an inpatient or an outpatient,  
39 or that the state hospital provides a program that is specific to the  
40 needs of the patient and is unavailable in a local mental health treatment  
41 agency, and that the least restrictive placement to meet the needs of the  
42 patient for the foreseeable future is placement in the state hospital and  
43 there is a legally available funded bed in the state hospital, the court  
44 may amend the original treatment order authorizing the placement of the  
45 patient at the state hospital pursuant to section 36-540, subsection A,

1 paragraph 2 or 3. Within five days after receiving notice from the court,  
2 the superintendent shall notify the court whether a bed is available in  
3 the state hospital.

4 D. IN COMPUTING THE NUMBER OF INPATIENT TREATMENT DAYS AVAILABLE TO  
5 A PATIENT UNDER SECTION 36-540, SUBSECTION F, ANY TIME THE PATIENT SPENT  
6 IN A JAIL OR PRISON SHALL BE EXCLUDED.

APPROVED BY THE GOVERNOR MAY 13, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2025.