

REFERENCE TITLE: court-ordered evaluations

State of Arizona
House of Representatives
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HB 2742

Introduced by
Representatives Lopez: Biasiucci, Blackman, Carbone, Carter N, Diaz,
Gillette, Griffin, Marshall, Martinez, Montenegro, Nguyen, Peña, Powell,
Rivero, Taylor, Way, Weninger, Willoughby, Wilmeth

AN ACT

AMENDING SECTIONS 36-520, 36-530 AND 36-531, ARIZONA REVISED STATUTES;
RELATING TO COURT-ORDERED EVALUATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 36-520, Arizona Revised Statutes, is amended to
3 read:

4 36-520. Application for evaluation; definition

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

11 B. The application for evaluation shall include the following ~~data~~,
12 if known:

13 1. The name and address of the proposed patient for whom evaluation
14 is applied.

15 2. The age, date of birth, sex, race, marital status, occupation,
16 social security number, present location, dates and places of previous
17 hospitalizations, names and addresses of the guardian, agent under a
18 health care power of attorney or mental health care power of attorney,
19 spouse, next of kin and significant other persons and other data that the
20 director may require on the form to whatever extent that this data is
21 known and is applicable to the proposed patient.

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

24 4. A statement that the proposed patient is exhibiting behaviors
25 that may be consistent with a mental disorder and is believed to be, as a
26 result of a mental disorder, a danger to self or to others or a patient
27 with a persistent or acute disability or a grave disability and the facts
28 on which this statement is based.

29 5. A statement from the applicant of whether the applicant believes
30 that the proposed patient is or is not willing or able to undergo
31 voluntary evaluation and the facts on which this statement is based.

32 6. A statement of the proposed patient's relevant history of mental
33 health diagnosis, treatment recommended or provided and compliance with
34 the treatment recommended or provided.

35 7. A statement that the applicant believes the proposed patient is
36 in need of screening, evaluation, supervision, care and treatment and the
37 facts on which this statement is based.

38 8. Copies of all documents relating to guardianship or powers of
39 attorney that allow the guardian or agent to consent to inpatient
40 psychiatric treatment, which shall be attached to the application if
41 available at the time of the application.

42 9. A statement by the applicant of whether the applicant believes
43 that, without a period of inpatient observation, stabilization and
44 assessment, ~~or~~ or emergency inpatient psychiatric hospitalization, the

1 proposed patient is likely to cause or endure serious physical harm or
2 injury and the facts supporting that statement.

3 10. To the extent known, the names and contact information of
4 persons other than the applicant who have witnessed the behavior exhibited
5 by the proposed patient on which the application is based. The screening
6 agency may not deny or refuse to process an application because no other
7 witnesses have been identified.

8 C. The application shall be signed and notarized. For an
9 application made by a peace officer or a health care professional who is
10 licensed pursuant to title 32, chapter 13, 15, 17 or 19.1, a copy of the
11 application that contains the applicant's original signature is
12 acceptable, does not have to be notarized and may be submitted as the
13 written application.

14 D. The screening agency shall offer assistance to the applicant in
15 preparation of the application. On receipt of the application, the
16 screening agency shall immediately note on the front of the application
17 the time and date of receipt, shall log this information in a record of
18 applications received by the screening agency and shall act as prescribed
19 in section 36-521 within forty-eight hours after the filing of the
20 application, excluding weekends and holidays. If the application is not
21 acted on within forty-eight hours, **EXCLUDING WEEKENDS AND HOLIDAYS**, the
22 reasons for not acting promptly shall be reviewed by the director of the
23 screening agency or the director's designee and the reasons shall be
24 stated in the report required by section 36-521, subsection B.

25 E. If the applicant for the court-ordered evaluation presents the
26 person to be evaluated at the screening agency, the agency shall conduct a
27 prepetition screening examination. Except in the case of an emergency
28 evaluation, the person to be evaluated shall not be detained or forced to
29 undergo prepetition screening against the person's will.

30 F. In the course of conducting a prepetition screening, the
31 screening agency shall accept and consider information relevant to the
32 present behavior and past behavioral health history of the proposed
33 patient from persons who have a significant relationship with the proposed
34 patient, including family members and guardians.

35 G. If the applicant for the court-ordered evaluation does not
36 present the person to be evaluated at the screening agency, the agency
37 shall conduct the prepetition screening at the home of the person to be
38 evaluated or any other place the person to be evaluated is found. If
39 prepetition screening is not possible, the screening agency shall proceed
40 as prescribed in section 36-521, subsection B.

41 H. If a person is being treated by prayer or spiritual means alone
42 in accordance with the tenets and practices of a recognized church or
43 religious denomination by a duly accredited practitioner of that church or
44 denomination, the person may not be ordered evaluated, detained or

1 involuntarily treated unless the court has determined that the person is,
2 as a result of mental disorder, a danger to others or to self.

3 I. If the application is not acted on because it has been
4 determined that the proposed patient does not need an evaluation, the
5 medical director of the screening agency or the medical director's
6 designee shall make a written statement of the reasons why the proposed
7 patient does not need an evaluation and shall retain the application
8 together with the medical director's statement and any records or reports
9 concerning prepetition screening required pursuant TO section 36-521.

10 J. If the screening agency determines that the application should
11 be denied or if the application is accepted but the screening agency
12 declines to file a petition for court-ordered evaluation, the screening
13 agency shall comply with the requirements of section 36-521,
14 subsection C. If the screening of the proposed patient took place in a
15 facility operated by the screening agency, the screening agency shall
16 attempt to notify the applicant that the screening agency intends to
17 release the proposed patient. The screening agency shall document the
18 time and method of the notification or an unsuccessful attempt to notify
19 the applicant. If requested by the applicant, the medical director of the
20 screening agency or the medical director's designee shall provide the
21 reason for the denial of the application or the decision not to file a
22 petition for court-ordered evaluation if either:

- 23 1. The disclosure is not opposed by the person who was screened.
- 24 2. The person who was screened is deemed to lack capacity to make
25 the decision to allow the disclosure and the disclosure is deemed to be in
26 the person's best interest.

27 K. For the purposes of this section, "person" includes a person
28 who:

- 29 1. Is under eighteen years of age.
- 30 2. Has been transferred to the criminal division of the superior
31 court pursuant to section 8-327 or who has been charged with an offense
32 pursuant to section 13-501.
- 33 3. Is under the supervision of an adult probation department.

34 Sec. 2. Section 36-530, Arizona Revised Statutes, is amended to
35 read:

36 36-530. Evaluation and treatment

37 A. A person who is admitted to an evaluation agency shall receive
38 an evaluation as soon as possible after the court's order for evaluation
39 and, subject to the provisions of sections 36-512 and 36-513 concerning
40 the person's right to refuse treatment, receive care and treatment as
41 required by the person's condition for the full period that the person is
42 hospitalized. A clinical record shall be kept for each person that
43 details all medical and psychiatric evaluations and all care and treatment
44 received by the person.

1 B. A person receiving an evaluation on an inpatient basis will
2 remain in the facility during the evaluation, which shall be completed in
3 less than seventy-two hours. **FILING WITH THE COURT SHALL BE COMPLETED**
4 **WITHIN SEVENTY-TWO HOURS AFTER ADMISSION, EXCLUDING WEEKENDS AND HOLIDAYS.**

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

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

16 E. In the course of conducting an evaluation, the evaluation agency
17 shall solicit, accept and consider information relevant to the present
18 behavior and past behavioral health history of the proposed patient from
19 persons known to the agency who have a significant relationship with the
20 proposed patient, including family members and guardians.

21 Sec. 3. Section 36-531, Arizona Revised Statutes, is amended to
22 read:

23 **36-531. Evaluation; possible dispositions; release**

24 A. A person who is being evaluated on an inpatient basis in an
25 evaluation agency shall be released if, in the opinion of the medical
26 director of the agency, further evaluation is not appropriate unless the
27 person applies for further care and treatment on a voluntary basis.

28 B. If it is determined on an evaluation of the patient's condition
29 that the patient is, as a result of a mental disorder, a danger to self or
30 to others or has a persistent or acute disability or a grave disability,
31 the medical director in charge of the agency that provided the evaluation,
32 unless the person applies for further care and treatment on a voluntary
33 basis, shall prepare, sign and file a petition for court-ordered treatment
34 **ON THE SAME OR A SUCCEEDING COURT DAY** unless the county attorney performs
35 the functions of preparing, signing or filing the petition as provided in
36 subsection C of this section.

37 C. The agency may contact the county attorney to obtain assistance
38 in preparing the petition for court-ordered treatment, and the agency may
39 request the advice and judgment of the county attorney in reaching a
40 decision as to whether court-ordered treatment is justified.

41 D. A person **WHO IS** being evaluated on an inpatient basis in an
42 evaluation agency shall be released within seventy-two hours, excluding
43 weekends and holidays, ~~from~~ **AFTER** the time that the person is hospitalized
44 pursuant to a court order for evaluation, unless the person applies for
45 further care and treatment on a voluntary basis or unless a petition for

1 court-ordered treatment has been filed pursuant to subsection B of this
2 section.

3 E. If a prosecutor filed a petition pursuant to section 13-4517,
4 the medical director of an evaluation agency shall provide notice within
5 twenty-four hours to the court and the prosecuting agency of the medical
6 director's intention to release the person under this section. If the
7 person has been remanded to an evaluation agency pursuant to section
8 13-4517, the evaluation agency shall detain the person for an additional
9 twenty-four hours to allow for the provision of any required notices. The
10 medical director shall provide the patient's records, including medical
11 and treatment records, to the court and the prosecuting agency.

12 F. The administration may conduct jointly with a school district,
13 directly or indirectly, an educational evaluation pursuant to sections
14 15-765 and 15-766 for nonadjudicated youth. The evaluation information
15 may be shared by and among authorized personnel employed by the
16 administration and the department of education, or authorized personnel
17 from the local education agency, for purposes of ensuring the provision of
18 special education and related services as required by the individuals with
19 disabilities education act (20 United States Code sections 1400 through
20 1415).

21 G. If a person WHO IS being evaluated on an inpatient basis is
22 released pursuant to this section, the medical director of the evaluation
23 agency shall make a written statement on a form and in a manner prescribed
24 by the director stating why further evaluation was not appropriate and why
25 release was appropriate. A copy of this written statement shall be filed
26 with the court that entered the order for court-ordered evaluation to be
27 filed as a part of the court record and shall be made a part of the
28 patient's medical record.