

REFERENCE TITLE: inpatient treatment days; computation; exclusion

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

HB 2944

Introduced by
Representatives Hernandez A: Hernandez C

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.