

REFERENCE TITLE: mental illness; prisoners; diagnosis; treatment

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

# **SB 1046**

Introduced by  
Senators Miranda: Kuby

## AN ACT

AMENDING SECTIONS 31-126 AND 31-226, ARIZONA REVISED STATUTES; AMENDING TITLE 31, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 31-226.02; AMENDING SECTION 36-521, ARIZONA REVISED STATUTES; RELATING TO INCARCERATED PERSONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 31-126, Arizona Revised Statutes, is amended to  
3 read:

31-126. Examination: county prisoners; mental disorders; definition

6 A. When a person WHO IS confined in the county jail ~~upon~~ ON THE  
7 PERSON'S arrest for or conviction of a ~~misdemeanor~~ CRIME manifests  
8 symptoms of a mental disorder, the sheriff shall ~~notify~~ CAUSE THE PERSON  
9 TO BE EXAMINED WITHIN TWENTY-FOUR HOURS BY a licensed physician ~~who shall~~  
10 ~~examine the person~~. If in the judgment of ~~a~~ THE licensed physician the  
11 person is suffering from a mental disorder, ~~proceedings shall be taken~~ AND  
12 AS A RESULT OF THE MENTAL DISORDER IS A DANGER TO SELF, A DANGER TO  
13 OTHERS, PERSISTENTLY OR ACUTELY DISABLED OR GRAVELY DISABLED, THE SHERIFF  
14 SHALL FILE A PETITION FOR EVALUATION as prescribed by title 36, chapter 5.  
15 The proceedings under title 36, chapter 5, shall be separate from court  
16 proceedings relating to the ~~misdemeanor charge~~ CRIMINAL CHARGE AGAINST THE  
17 PERSON.

18 B. IF A PETITION FOR EVALUATION MADE PURSUANT TO SUBSECTION A OF  
19 THIS SECTION IS GRANTED, THE SHERIFF SHALL TRANSPORT THE PRISONER TO THE  
20 APPROPRIATE EVALUATION AGENCY.

21 C. A PERSON WHO IS CONFINED IN THE COUNTY JAIL, ON ADMISSION TO THE  
22 COUNTY JAIL, SHALL BE SCREENED TO DETERMINE WHETHER THE PERSON HAS BEEN  
23 DIAGNOSED WITH A MENTAL ILLNESS AND HAS BEEN RECEIVING TREATMENT FOR THE  
24 ILLNESS AND WHETHER THE PERSON HAS BEEN DESIGNATED AS SERIOUSLY MENTALLY  
25 ILL. IF A PRIOR DIAGNOSIS OF MENTAL ILLNESS HAS BEEN MADE, THE SHERIFF  
26 SHALL DETERMINE WHAT, IF ANY, TREATMENT WAS BEING PROVIDED TO THE PRISONER  
27 BEFORE CONFINEMENT IN THE COUNTY JAIL, INCLUDING SPECIFICALLY WHAT  
28 MEDICATIONS THE PRISONER WAS TAKING, AND SHALL TAKE IMMEDIATE STEPS TO  
29 ENSURE THAT THE PRISONER CONTINUES TO RECEIVE PRESCRIBED MEDICATIONS  
30 UNINTERRUPTED WITHIN TWENTY-FOUR HOURS AFTER ARRIVING IN THE COUNTY JAIL  
31 AND TO THE EXTENT PRACTICABLE THAT OTHER TREATMENTS CONTINUE UNINTERRUPTED  
32 WHILE IN THE COUNTY JAIL.

33 D. IF A PRISONER WHO HAS PREVIOUSLY BEEN DIAGNOSED WITH A MENTAL  
34 ILLNESS OR WHO IS DISCOVERED TO HAVE A MENTAL ILLNESS ON EXAMINATION BY A  
35 LICENSED PHYSICIAN HAS NOT BEEN DESIGNATED AS SERIOUSLY MENTALLY ILL, THE  
36 SHERIFF SHALL SUBMIT A REQUEST FOR A SERIOUS MENTAL ILLNESS DETERMINATION  
37 FROM THE APPROPRIATE REGIONAL BEHAVIORAL HEALTH AUTHORITY OR THE STATE  
38 DEPARTMENT OF CORRECTIONS, AS APPROPRIATE, WITHIN SEVEN DAYS AFTER  
39 RECEIVING THE DIAGNOSIS. THE SHERIFF SHALL PROVIDE THE SERIOUS MENTAL  
40 ILLNESS EVALUATION AGENCY WITH ALL AVAILABLE MEDICAL AND PSYCHIATRIC  
41 EVALUATIONS AND REPORTS SO THAT AN ACCURATE SERIOUS MENTAL ILLNESS  
42 DETERMINATION CAN BE MADE.

43           E. FOR THE PURPOSES OF THIS SECTION, "LICENSED PHYSICIAN" HAS THE  
44 SAME MEANING PRESCRIBED IN SECTION 36-501.

1       Sec. 2. Section 31-226, Arizona Revised Statutes, is amended to  
2 read:

3       31-226. Prisoners; mental disorders; procedure for voluntary  
4                   or involuntary hospitalization; notice; hearing;  
5                   transfer; reports; return to incarceration or  
6                   release; costs; definition

7       A. ~~If~~ **WITHIN SEVENTY-TWO HOURS AFTER** a prisoner WHO IS confined in  
8 any facility operated by the state department of corrections displays  
9 symptoms of mental disorder to such a degree that transfer to the state  
10 hospital or a licensed behavioral health or mental health inpatient  
11 treatment facility operated by the state department of corrections is  
12 necessary to ensure adequate treatment, the psychiatrist of the facility,  
13 or if no psychiatrist is available, the physician at the facility, shall  
14 examine the prisoner and make a written report of the psychiatrist's or  
15 physician's recommendations to the director of the state department of  
16 corrections. On receipt of a report that states that the psychiatrist or  
17 physician finds that the symptoms described in this subsection exist, the  
18 director of the state department of corrections may allow the prisoner to  
19 voluntarily transfer to a licensed behavioral health or mental health  
20 inpatient treatment facility operated by the state department of  
21 corrections if the prisoner is an adult male, to the state hospital or a  
22 licensed behavioral health treatment facility operated by the state  
23 department of corrections if the prisoner is a female or to the state  
24 hospital if the prisoner is a minor. If the patient does not voluntarily  
25 transfer, the director shall file a petition with the superior court in  
26 the county in which the prisoner is incarcerated for transfer for  
27 treatment of the prisoner to the state hospital or a licensed behavioral  
28 health treatment facility operated by the state department of corrections  
29 if the prisoner is a female, to a licensed behavioral health or mental  
30 health inpatient treatment facility operated by the state department of  
31 corrections if the prisoner is an adult male or to the state hospital if  
32 the prisoner is a minor.

33     B. At least ten days before the court conducts the hearing on the  
34 petition for transfer, the state department of corrections shall provide a  
35 copy of the petition and written notice of the hearing to the prisoner and  
36 written notice of the prisoner's rights at the hearing.

37     C. At least five days before the hearing, if the prisoner has not  
38 employed counsel, the court shall appoint counsel or an independent  
39 advisor to represent the prisoner at the hearing. On application by the  
40 prisoner the court shall also determine the necessity for any expert  
41 testimony by medical witnesses and authorize any necessary appointment and  
42 compensation for these witnesses at the state's expense. Notice shall be  
43 given to the state hospital if the prisoner is a female or a minor, and  
44 the state hospital shall be provided with an opportunity to participate in  
45 the hearing as an interested party, if it so desires.

1       D. At the hearing, the prisoner or the prisoner's representative  
2 may call witnesses to testify and may confront and cross-examine witnesses  
3 called by the state department of corrections except on a finding of good  
4 cause for not ~~permitting~~ ALLOWING such presentation, confrontation or  
5 cross-examination.

6       E. If the prisoner is determined to be suffering from a mental  
7 disorder to such a degree that transfer to the state hospital or a  
8 licensed behavioral health or mental health inpatient treatment facility  
9 operated by the state department of corrections is necessary to ensure  
10 adequate treatment, the court shall order and direct that the prisoner be  
11 transferred for treatment to the state hospital in the legal custody of  
12 the state department of corrections or a licensed behavioral health  
13 treatment facility operated by the state department of corrections if the  
14 prisoner is a female, to a licensed behavioral health or mental health  
15 inpatient treatment facility operated by the state department of  
16 corrections if the prisoner is an adult male or to the state hospital if  
17 the prisoner is a minor. The transfer of the prisoner to the state  
18 hospital shall be made by the state department of corrections. The court  
19 order must be in writing and state the evidence relied on and the reasons  
20 for transferring the prisoner.

21      F. The superintendent of the state hospital shall provide the state  
22 department of corrections with a quarterly report of the condition of a  
23 prisoner transferred to the state hospital. The superintendent of the  
24 state hospital and the director of the state department of corrections  
25 shall also provide the superior court in the county ~~which~~ THAT has  
26 jurisdiction over the transfer proceeding with a quarterly report of the  
27 condition of the prisoner.

28      G. If, in the opinion of the superintendent of the state hospital  
29 or the director of the state department of corrections, the prisoner no  
30 longer suffers from a mental disorder such that placement in the state  
31 hospital or the licensed behavioral health or mental health inpatient  
32 treatment facility operated by the state department of corrections is  
33 necessary to ensure adequate treatment, the superintendent of the state  
34 hospital or the director of the state department of corrections shall  
35 order the prisoner to a licensed behavioral health treatment facility  
36 operated by the state department of corrections or returned to a prison  
37 facility to serve the prisoner's unexpired term, and the period the  
38 prisoner was confined in the state hospital or the behavioral health or  
39 mental health treatment agency shall be considered as though incarcerated  
40 in a state department of corrections facility. If the term of  
41 imprisonment expires during the time the prisoner is confined in the state  
42 hospital or the behavioral health or mental health inpatient treatment  
43 facility, the director of the state department of corrections shall issue  
44 to the prisoner an absolute discharge at that time, and the prisoner's

1 rights to release from the hospital are as provided in title 36,  
2 chapter 5.

3 H. A PETITION FOR court-ordered evaluation ~~may~~ SHALL be ~~made~~ FILED  
4 in accordance with title 36, chapter 5, article 4 if, within one hundred  
5 twenty days of the prisoner's scheduled release from prison or during any  
6 time that the prisoner is on release status, the prisoner appears to be,  
7 as a result of a mental disorder, a danger to self, ~~or~~ A DANGER to others,  
8 ~~or is a prisoner with a grave disability PERSISTENTLY OR ACUTELY DISABLED~~  
9 ~~OR GRAVELY DISABLED~~, and is ~~EITHER UNABLE OR~~ unwilling to undergo a  
10 voluntary evaluation. For the purposes of this section, an inpatient  
11 mental health treatment facility operated by the state department of  
12 corrections is authorized to act as a screening agency. If the court  
13 orders inpatient evaluation, ~~the order shall take effect on the day of the~~  
14 ~~prisoner's scheduled release~~, THE EVALUATION SHALL TAKE PLACE WITHIN  
15 SEVENTY-TWO HOURS WITHIN THE STATE DEPARTMENT OF CORRECTIONS or, if the  
16 prisoner is on release status, ~~on a date determined by the court, and~~ the  
17 state department of corrections shall ~~deliver~~ TRANSPORT the prisoner to  
18 the evaluation agency. THE EVALUATION MUST TAKE PLACE IN A LOCATION THAT  
19 PROVIDES CONFIDENTIAL COMMUNICATION AND BE DONE BY A BEHAVIORAL HEALTH  
20 PROFESSIONAL WHO IS QUALIFIED TO MAKE THE EVALUATION. Thereafter, all  
21 further evaluation and treatment shall be in accordance with the  
22 provisions of title 36, chapter 5, ~~as they~~ THAT pertain to civil patients.

23 I. The state department of corrections shall pay all costs incurred  
24 for the prisoner during the term of the prisoner's sentence.

25 J. The county in which the court is located shall be reimbursed for  
26 expenses of the proceedings incurred by the county in accordance with  
27 section 31-227.

28 K. ~~As used in~~ FOR THE PURPOSES OF this section, "mental disorder"  
29 has the same meaning prescribed in section 36-501.

30 Sec. 3. Title 31, chapter 2, article 2, Arizona Revised Statutes,  
31 is amended by adding section 31-226.02, to read:

32 31-226.02. Prisoners; mental disorders; procedures for  
33 custody transfer; treatment plan; definition

34 A. FOR ANY PRISONER WHO HAS BEEN DIAGNOSED WITH A MENTAL DISORDER  
35 OR WHO IS MANIFESTING THE SYMPTOMS OF A MENTAL DISORDER, ON CONVICTION FOR  
36 A CRIME THAT REQUIRES SERVING A SENTENCE IN A FACILITY UNDER THE  
37 JURISDICTION OF THE DEPARTMENT, BEFORE THE PRISONER IS DELIVERED INTO THE  
38 CUSTODY OF THE DEPARTMENT, THE MEDICAL DIRECTOR OF THE DEPARTMENT SHALL  
39 ENSURE THAT ALL OF THE FOLLOWING OCCUR:

40 1. THE PRISONER IS EVALUATED BY A PSYCHIATRIST TO DETERMINE WHETHER  
41 THE PRISONER SUFFERS OR CONTINUES TO SUFFER FROM A MENTAL DISORDER AND TO  
42 DETERMINE A WRITTEN TREATMENT PLAN FOR THE PRISONER WHILE INCARCERATED  
43 UNDER THE DEPARTMENT'S JURISDICTION. THE TREATMENT PLAN SHALL INCLUDE, AT  
44 A MINIMUM:

1       (a) THE IDENTIFICATION OF ANY MEDICATIONS THE PRISONER IS CURRENTLY  
2 PRESCRIBED OR SHOULD BE PRESCRIBED TO STABILIZE OR IMPROVE THE MENTAL  
3 DISORDER AND WHETHER THE MEDICATIONS NEED TO BE ADMINISTERED UNDER CERTAIN  
4 CONDITIONS OR REQUIREMENTS, SUCH AS A "WATCH SWALLOW" INSTRUCTION OR BY  
5 INJECTION, TO ENSURE ADHERENCE TO THE TREATMENT REGIMEN.

6       (b) THE IDENTIFICATION OF ANY OTHER CHRONIC MEDICAL CONDITION,  
7 INCLUDING DIABETES, EPILEPSY OR CARDIOVASCULAR DISORDER, AND ANY  
8 MEDICATION NECESSARY TO ADDRESS ANY CHRONIC MEDICAL CONDITION.

9       (c) AN ASSESSMENT OF THE APPROPRIATE PLACEMENT FOR THE PRISONER IN  
10 THE DEPARTMENT'S SYSTEM, INCLUDING THE NEED TO BE SEPARATED FROM THE  
11 GENERAL PRISON POPULATION IN ORDER TO AVOID HARM TO THE PRISONER, OTHER  
12 PRISONERS OR STAFF.

13       (d) ANY OTHER PROVISIONS THAT THE MEDICAL DIRECTOR OR THE COURT  
14 BELIEVES ARE NECESSARY TO ADEQUATELY ADDRESS THE PRISONER'S MENTAL  
15 DISORDER OR TO PROTECT THE WELL-BEING OF THE PRISONER AND OTHERS WHILE THE  
16 PRISONER IS INCARCERATED.

17       2. THE PRISONER IS EVALUATED FOR A DETERMINATION OF A SERIOUS  
18 MENTAL ILLNESS DESIGNATION AND ENTITLEMENT TO ADDITIONAL BENEFITS THAT  
19 COME WITH THIS DESIGNATION.

20       3. THE WRITTEN TREATMENT PLAN IS APPROVED BY THE COURT AND  
21 ACCOMPANIES THE PRISONER WHEN TRANSFERRED TO THE DEPARTMENT TO BEGIN  
22 SERVING A SENTENCE PURSUANT TO AN ORDER OF THE COURT.

23       B. ON TRANSFER TO THE DEPARTMENT TO BEGIN SERVING A SENTENCE OF  
24 INCARCERATION, THE MEDICAL DIRECTOR OF THE DEPARTMENT SHALL IDENTIFY THE  
25 PRISONER IN SOME EASILY RECOGNIZABLE MANNER INDICATING THAT THE PRISONER  
26 HAS BEEN IDENTIFIED AS A PRISONER NEEDING PARTICULAR ATTENTION BECAUSE OF  
27 A MEDICAL, MENTAL HEALTH OR SUPERVISION NEED.

28       C. DURING THE PRISONER'S PERIOD OF INCARCERATION:

29       1. THE WRITTEN TREATMENT PLAN SHALL BE MANAGED AND AMENDED, WHEN  
30 NECESSARY, IN ACCORDANCE WITH BEST EVIDENCE-BASED PRACTICES IN ORDER TO  
31 STABILIZE OR IMPROVE THE PRISONER'S MEDICAL OR MENTAL HEALTH CONDITIONS.

32       2. THE STATE DEPARTMENT OF CORRECTIONS SHALL GIVE THE PRISONER'S  
33 MEDICAL RECORDS, INCLUDING MENTAL HEALTH RECORDS, TO THE PRISONER'S  
34 GUARDIAN OR DESIGNEE IF THE PRISONER HAS A GUARDIAN OR DESIGNATES A PERSON  
35 TO ACCESS THE RECORDS.

36       D. FOR THE PURPOSES OF THIS SECTION, "MENTAL DISORDER" HAS THE SAME  
37 MEANING PRESCRIBED IN SECTION 36-501.

38       Sec. 4. Section 36-521, Arizona Revised Statutes, is amended to  
39 read:

40       36-521. Petition for court-ordered evaluation; preparation  
41                   procedures for prepetition screening

42       A. On receiving the application for evaluation, the screening  
43 agency, before filing a petition for court-ordered evaluation, shall  
44 provide prepetition screening within forty-eight hours excluding weekends  
45 and holidays when possible to determine whether there is reasonable cause

1 to believe the person has a persistent or acute disability or a grave  
2 disability or is a danger to self or others as a result of a mental  
3 disorder, and whether the person will voluntarily receive evaluation at a  
4 scheduled time and place.

5 B. After prepetition screening has been completed, the screening  
6 agency shall prepare a report of opinions and conclusions. If prepetition  
7 screening is not possible, the screening agency shall prepare a report  
8 giving reasons why the **PREPETITION** screening was not possible and  
9 including opinions and conclusions of staff members who attempted to  
10 conduct prepetition screening or otherwise investigated the matter.

11 C. If the prepetition screening agency determines that the  
12 application for evaluation is to be denied, the denial shall be stated in  
13 writing on the application form and shall be reviewed and confirmed by the  
14 medical director of the screening agency or the medical director's  
15 designee. If the screening agency determines that although the person  
16 does not currently meet the criteria for court-ordered evaluation, there  
17 are reasonable grounds to believe that the person has a mental disorder,  
18 is in need of further evaluation or treatment and is able and willing to  
19 pursue private or public evaluation or treatment services available to the  
20 person in the community, the screening agency shall assist the proposed  
21 patient in finding specific evaluation or treatment services in the  
22 proposed patient's area and, if requested, make a direct referral to a  
23 person, agency or organization providing behavioral health services for  
24 the purpose of evaluation and treatment.

25 D. If, based on the allegations of the applicant for the  
26 court-ordered evaluation and the prepetition screening report or other  
27 information obtained while attempting to conduct a prepetition screening,  
28 the **SCREENING** agency determines that there is reasonable cause to believe  
29 that the proposed patient is, as a result of mental disorder, a danger to  
30 self or to others or has a persistent or acute disability or a grave  
31 disability and that the proposed patient is unable or unwilling to  
32 voluntarily receive evaluation or is likely to present a danger to self or  
33 to others, has a grave disability or will further deteriorate before  
34 receiving a voluntary evaluation, the **SCREENING** agency shall prepare a  
35 petition for court-ordered evaluation and shall file the petition, which  
36 shall be signed by the person who prepared the petition unless the county  
37 attorney performs these functions. If the **SCREENING** agency determines  
38 that there is reasonable cause to believe that the person is in such a  
39 condition that without immediate hospitalization he is likely to harm  
40 himself or others, the **SCREENING** agency shall take all reasonable steps to  
41 procure such hospitalization on an emergency basis.

42 E. The agency may contact the county attorney in order to obtain  
43 assistance in preparing the petition for court-ordered evaluation, and the  
44 **SCREENING** agency may request the advice and judgment of the county

1 attorney in reaching a decision as to whether the court-ordered evaluation  
2 is justified.

3 F. The county attorney may prepare or sign or file the petition if  
4 a court has ordered the county attorney to prepare the petition, OR A  
5 SHERIFF MAY FILE THE PETITION PURSUANT TO SECTION 31-126, SUBSECTION A.

6 G. If a petition for court-ordered evaluation alleges danger to  
7 others as described in section 36-501, the screening agency, before filing  
8 such a petition, shall contact the county attorney for a review of the  
9 petition. The county attorney shall examine the petition and make one of  
10 the following written recommendations:

11 1. That a criminal investigation is warranted.

12 2. That the screening agency shall file the petition.

13 3. That no further proceedings are warranted. The screening agency  
14 shall consider the recommendation in determining whether a court-ordered  
15 evaluation is justified and shall include the recommendation with the  
16 petition if the SCREENING agency decides to file the petition with the  
17 court.

18 H. The petition shall be made in the form and manner prescribed by  
19 the director.

20 I. If a petition for court-ordered evaluation is filed by a  
21 prosecutor pursuant to section 13-4517, a prior application for  
22 court-ordered evaluation or prescreening is not necessary.