

REFERENCE TITLE: **evaluation agencies; hearings; witnesses**

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

## **SB 1354**

Introduced by  
Senator Gowan

**AN ACT**

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

36-539. Conduct of hearing; record; transcript

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

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