

~~technical correction; critical infrastructure information~~
~~(now: dangerous incompetent defendants; out-of-state facilities)~~
(now: dangerous incompetent defendants; study committee)

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HOUSE BILL 2307

AN ACT

AMENDING SECTION 13-4521, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 41, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-4521.01; REPEALING SECTION 13-4521.01, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO DANGEROUS AND INCOMPETENT DEFENDANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 13-4521, Arizona Revised Statutes, is amended to
3 read:

4 13-4521. Dangerous and incompetent defendants; proof evident
5 hearing; commitment trial; disposition; findings;
6 annual report

7 A. If a court enters an order pursuant to section 13-4517,
8 subsection A, paragraph 4, the court shall hold a hearing within ten days
9 after the order is issued to determine if the proof is evident or the
10 presumption great that the defendant committed the act that constitutes a
11 serious offense as defined in section 13-706. If the court does not find
12 the proof is evident or the presumption great that the defendant committed
13 the act, the court shall proceed pursuant to section 13-4517, subsection
14 A, paragraph 1, 2 or 3.

15 B. If the court does find the proof is evident or the presumption
16 great pursuant to subsection A of this section, the court shall hold a
17 trial within one hundred twenty days after the court issued the order
18 pursuant to section 13-4517, subsection A, paragraph 4 to determine if the
19 defendant is dangerous and should be involuntarily committed. Unless the
20 state or defendant requests a jury trial, a trial held pursuant to this
21 subsection shall be before the court.

22 C. The Arizona rules of evidence and the Arizona rules of civil
23 procedure apply to proceedings held pursuant to this section, except that
24 the court may consider evidence that is not admissible under the Arizona
25 rules of evidence when making a determination pursuant to subsection A of
26 this section.

27 D. If there has not been a previous evaluation to determine whether
28 the defendant is dangerous, the defendant shall be examined by mental
29 health experts in accordance with the requirements of section 13-4509,
30 subsection D to determine if the defendant should be considered dangerous.
31 The state and the defendant may each retain a mental health expert to
32 examine the defendant and present the defendant's mental health evaluation
33 at the trial.

34 E. At a trial to determine if the defendant is dangerous, the state
35 shall establish beyond a reasonable doubt that the defendant is dangerous
36 and should be involuntarily committed. If the factfinder does not find
37 that the defendant is dangerous or does not find that the defendant should
38 be involuntarily committed, the court shall proceed pursuant to section
39 13-4517, subsection A, paragraph 1, 2 or 3.

40 F. If the factfinder finds that the defendant is dangerous and
41 should be involuntarily committed, the court shall dismiss the charges
42 against the defendant without prejudice and order the defendant to be
43 committed to a secure state mental health facility. The defendant shall
44 receive education, care, supervision and treatment to render the defendant
45 either competent or nondangerous.

1 G. If the court issues OR HAS ISSUED a commitment order pursuant to
2 this section:

3 1. UNTIL DECEMBER 31, 2031, IF THE DEFENDANT HAS BEEN DETERMINED TO
4 BE DANGEROUS AND INCOMPETENT AND IS INVOLUNTARILY COMMITTED TO A SECURE
5 STATE MENTAL HEALTH FACILITY PURSUANT TO THIS SECTION BUT THERE ARE NO
6 BEDS AVAILABLE IN A SECURE STATE MENTAL HEALTH FACILITY IN THIS STATE,
7 SECTION 13-4521.01 APPLIES TO THE PLACEMENT OF THE DEFENDANT, BUT ALL
8 OTHER PROVISIONS OF THIS SECTION REMAIN APPLICABLE TO THE DEFENDANT.

9 ~~1.~~ 2. All further proceedings for the defendant's continued
10 treatment and the circumstances under which the defendant may be released
11 shall be conducted pursuant to title 36, chapter 40.

12 ~~2.~~ 3. The order shall require that the defendant remain committed
13 to a secure state mental health facility until any of the following
14 occurs:

15 (a) The court finds that the defendant is competent to stand trial.

16 (b) The court finds that the defendant is no longer dangerous.

17 H. A commitment order issued pursuant to this section may not be in
18 effect for more than the presumptive sentence the defendant could have
19 received for the highest charged offense pursuant to section 13-702 or
20 13-703, section 13-704, subsection A, B, C, D or E, section 13-705,
21 section 13-706, subsection A, section 13-708, subsection D or section
22 13-751 or any section for which a specific sentence is authorized. In
23 making this determination, the court may not consider the sentence
24 enhancements under section 13-703 or 13-704 for prior convictions. The
25 court shall consider all time a defendant has been in custody, including
26 pretrial detention and custody under title 36.

27 I. The court shall retain jurisdiction over a defendant who is
28 committed pursuant to this section until the court discharges the
29 defendant from treatment. If a defendant is discharged or released on the
30 expiration of a commitment order issued pursuant to this section, the
31 medical director of the secure state mental health facility from which the
32 defendant is discharged or released or the state may file a petition
33 stating that the defendant requires further treatment pursuant to title
34 36, chapter 5 or the appointment of a guardian pursuant to title 14.

35 J. Findings by the court made pursuant to this section and, except
36 as provided in section 13-4508, any statements made by the defendant
37 during an examination by a mental health expert pursuant to section
38 13-4509 are inadmissible in any proceeding other than a proceeding under
39 title 36, chapters 5 and 40.

40 K. A person who is involuntarily committed to a secure state mental
41 health facility pursuant to this section shall receive credit for all time
42 spent under the jurisdiction of the secure state mental health facility if
43 the person is found competent to stand trial and is subsequently sentenced
44 to the state department of corrections for any of the charges that were
45 the basis for the involuntary commitment.

1 L. The court shall annually report the following information for
2 the previous year to the Arizona criminal justice commission:

3 1. The number of court orders for a trial pursuant to section
4 13-4517, subsection A, paragraph 4, including the number of jury trials
5 that were held.

6 2. The number of defendants who are committed after a trial
7 pursuant to this section.

8 3. The number of committed defendants who are conditionally
9 released to a less restrictive alternative.

10 4. The number of committed defendants who are restored to
11 competency or determined to not be dangerous and who are discharged.

12 Sec. 2. Title 13, chapter 41, Arizona Revised Statutes, is amended
13 by adding section 13-4521.01, to read:

14 13-4521.01. Dangerous and incompetent defendants; placement
15 until December 31, 2031; reports

16 A. UNTIL DECEMBER 31, 2031, IF THE COURT ISSUES OR HAS ISSUED A
17 COMMITMENT ORDER PURSUANT TO SECTION 13-4521 AND THERE ARE NO BEDS
18 AVAILABLE IN A SECURE STATE MENTAL HEALTH FACILITY IN THIS STATE, THE
19 ARIZONA STATE HOSPITAL MAY ACCEPT THE DEFENDANT FOR CARE AND TREATMENT ON
20 ITS FORENSIC CAMPUS IF ALL OF THE FOLLOWING APPLY:

21 1. THE DEFENDANT HAS BEEN DETERMINED TO BE DANGEROUS AND
22 INCOMPETENT AND IS INVOLUNTARILY COMMITTED TO A SECURE STATE MENTAL HEALTH
23 FACILITY PURSUANT TO SECTION 13-4521.

24 2. THE DEFENDANT HAS RECEIVED AT LEAST TWELVE MONTHS OF RESTORATION
25 TO COMPETENCY SERVICES.

26 3. THE DEFENDANT HAS A PRIMARY PSYCHIATRIC CONDITION.

27 B. THE ORDER SHALL:

28 1. REQUIRE THAT THE DEFENDANT REMAIN COMMITTED TO THE ARIZONA STATE
29 HOSPITAL PURSUANT TO THIS SECTION OR A SECURE STATE MENTAL HEALTH FACILITY
30 UNTIL EITHER OF THE FOLLOWING OCCURS:

31 (a) THE COURT FINDS THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL.

32 (b) THE COURT FINDS THAT THE DEFENDANT IS NO LONGER DANGEROUS.

33 2. INCLUDE AUTHORIZATION FOR THE ARIZONA STATE HOSPITAL TO PROVIDE
34 NECESSARY TREATMENT TO THE DEFENDANT, INCLUDING THE ADMINISTRATION OF
35 MEDICATIONS AS CLINICALLY INDICATED, AND TO ENSURE THE SAFETY AND SECURITY
36 OF THE FACILITY.

37 3. ALLOW THE ARIZONA STATE HOSPITAL TO ISSUE A STANDING ORDER FOR
38 THE APPLICATION OF RESTRAINTS TO THE DEFENDANT AS NECESSARY TO ENSURE THE
39 SAFETY AND SECURITY OF THE FACILITY.

40 C. IF THE MEDICAL DIRECTOR DETERMINES THAT A DEFENDANT WHO WAS
41 DETERMINED TO BE DANGEROUS, INCOMPETENT AND NONRESTORABLE PURSUANT TO
42 SECTION 13-4521 MAY NO LONGER BE DANGEROUS OR INCOMPETENT, THE DISPOSITION
43 OF THE PROCEEDINGS SHALL BE PURSUANT TO TITLE 36, CHAPTER 40.

1 D. AS SOON AS PRACTICABLE, ON THE LICENSURE OF A SECURE STATE
2 MENTAL HEALTH FACILITY FOR THE CARE AND TREATMENT OF DEFENDANTS WHO ARE
3 COMMITTED UNDER SECTION 13-4521, THE ARIZONA STATE HOSPITAL SHALL
4 COORDINATE THE TRANSFER OF ANY DEFENDANT WHO IS ADMITTED TO THE ARIZONA
5 STATE HOSPITAL PURSUANT TO THIS SECTION TO THE SECURE STATE MENTAL HEALTH
6 FACILITY.

7 E. THE COSTS OF A DEFENDANT WHO IS DETERMINED TO BE DANGEROUS,
8 INCOMPETENT AND NONRESTORABLE AND WHO IS SUBSEQUENTLY ADMITTED TO THE
9 ARIZONA STATE HOSPITAL PURSUANT TO THIS SECTION SHALL BE PAID BY THE
10 DEPARTMENT OF HEALTH SERVICES, INCLUDING THE COSTS FOR ALL NONPSYCHIATRIC
11 OR NONMENTAL HEALTH DISORDER-RELATED SERVICES PROVIDED TO THE DEFENDANT
12 DURING THE DEFENDANT'S ADMISSION.

13 F. THE ARIZONA STATE HOSPITAL MAY NOT ACCEPT MORE THAN ONE
14 DEFENDANT WHO HAS A PRIMARY PSYCHIATRIC CONDITION, WHO HAS BEEN DETERMINED
15 TO BE DANGEROUS, INCOMPETENT AND NONRESTORABLE PURSUANT TO SECTION 13-4521
16 AND WHOSE ORIGINATING COUNTY HAS A POPULATION OF LESS THAN FOUR HUNDRED
17 THOUSAND PERSONS FOR CARE AND TREATMENT ON THE ARIZONA STATE HOSPITAL'S
18 FORENSIC CAMPUS. IF THE ARIZONA STATE HOSPITAL REACHES, OR IS EXPECTED TO
19 REACH, THE MAXIMUM FUNDED CAPACITY FOR FORENSIC PROGRAMS, THE
20 SUPERINTENDENT SHALL INFORM EACH COUNTY'S PRESIDING JUDGE, COUNTY ATTORNEY
21 AND CHAIRPERSON OF THE BOARD OF SUPERVISORS THAT THE ARIZONA STATE
22 HOSPITAL MAY NOT ACCEPT ANY ADDITIONAL DEFENDANTS PURSUANT TO SECTION
23 13-502, 13-3992 OR 13-4521 OR THIS SECTION AND THE FOLLOWING APPLY:

24 1. NOTWITHSTANDING SECTION 13-3992, SUBSECTION E, THE DEPARTMENT OF
25 HEALTH SERVICES IS NOT REQUIRED TO REIMBURSE A COUNTY FOR THE ACTUAL COSTS
26 OF EACH DAY AN ADMISSION IS DEFERRED FOR A PERSON WHO HAS BEEN FOUND
27 GUILTY EXCEPT INSANE PURSUANT TO SECTION 13-502 IF THE DEFERRAL IS DUE TO
28 A DEFENDANT ADMITTED TO THE ARIZONA STATE HOSPITAL PURSUANT TO THIS
29 SECTION.

30 2. NEITHER THE DEPARTMENT OF HEALTH SERVICES OR ITS OFFICERS ARE
31 LIABLE FOR OR SUBJECT TO CIVIL SANCTIONS AS A RESULT OF THE ARIZONA STATE
32 HOSPITAL'S INABILITY TO ADMIT DEFENDANTS DUE TO REACHING THE MAXIMUM
33 FUNDED CAPACITY.

34 G. BEGINNING OCTOBER 1, 2026 AND EVERY SIX MONTHS THEREAFTER, THE
35 ADMINISTRATIVE OFFICE OF THE COURTS SHALL REPORT TO THE SPEAKER OF THE
36 HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE, THE GOVERNOR AND
37 THE DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES ALL OF THE FOLLOWING:

38 1. THE NUMBER OF DEFENDANTS WHO WERE DETERMINED TO BE INCOMPETENT
39 TO STAND TRIAL AND NONRESTORABLE.

40 2. THE NUMBER OF TRIALS INITIATED TO DETERMINE IF A DEFENDANT IS
41 DANGEROUS PURSUANT TO THIS SECTION.

42 3. THE NUMBER OF DEFENDANTS WHO WERE DETERMINED TO BE DANGEROUS
43 PURSUANT TO THIS SECTION.

1 4. THE NUMBER OF DEFENDANTS WHO WERE DETERMINED TO BE EITHER
2 INCOMPETENT TO STAND TRIAL AND NONRESTORABLE OR INCOMPETENT, NONRESTORABLE
3 AND DANGEROUS AND WHO WERE DIAGNOSED WITH A NEUROCOGNITIVE OR
4 NEURODEVELOPMENTAL DISORDER, INCLUDING A TRAUMATIC BRAIN INJURY, DEMENTIA
5 OR AUTISM.

6 Sec. 3. Delayed repeal

7 Section 13-4521.01, Arizona Revised Statutes, as added by this act,
8 is repealed from and after December 31, 2031.

9 Sec. 4. Legislative study committee on secure state mental
10 health facilities: membership: powers and duties:
11 delayed repeal; definition

12 A. The legislative study committee on secure state mental health
13 facilities is established consisting of the following members:

14 1. Three members of the senate who are appointed by the president
15 of the senate, not more than two of whom are members of the same political
16 party.

17 2. Three members of the house of representatives who are appointed
18 by the speaker of the house of representatives, not more than two of whom
19 are members of the same political party.

20 3. The director of the Arizona health care cost containment system
21 or the director's designee.

22 4. The superintendent of the Arizona state hospital or the
23 superintendent's designee.

24 5. The attorney general or a member of the attorney general's staff
25 who has experience in civil commitment procedures under title 36, Arizona
26 Revised Statutes, and commitment procedures under title 13, Arizona
27 Revised Statutes.

28 6. One member who is from a county attorney's office in a county
29 with a population of at least one million five hundred thousand persons
30 and who is appointed by the speaker of the house of representatives.

31 7. One member who is from a county attorney's office in a county
32 with a population of less than one million five hundred thousand persons
33 and who is appointed by the president of the senate.

34 8. At least two private sector providers who each have experience
35 in operating behavioral health facilities, one of whom is appointed by the
36 speaker of the house of representatives and one of whom is appointed by
37 the president of the senate.

38 9. One member who is a public defender in a county with a
39 population of at least one million five hundred thousand persons and who
40 is appointed by the president of the senate.

41 10. One member who is a public defender in a county with a
42 population of less than one million five hundred thousand persons and who
43 is appointed by the speaker of the house of representatives.

44 11. One member who is from the administrative office of the courts.

1 12. One member who is from a nonprofit federally mandated
2 protection and advocacy agency for this state and who is appointed by the
3 president of the senate.

4 13. Two members who are from a statewide association that
5 represents county supervisors, one of whom represents a county with a
6 population of at least one million persons and who is appointed by the
7 speaker of the house of representatives and one of whom represents a
8 county with a population of less than one million persons and who is
9 appointed by the president of the senate.

10 B. The committee shall make recommendations on the long-term
11 feasibility of secure state mental health facilities or other care models,
12 and shall:

13 1. Identify sustainable funding by analyzing and recommending
14 long-term funding sources for persons who are determined to be dangerous,
15 incompetent and nonrestorable pursuant to section 13-4521, Arizona Revised
16 Statutes, as amended by this act, including the feasibility of federal
17 medicaid reimbursement models.

18 2. Determine the appropriate per diem rates that are required to
19 incentivize private providers to build and operate secure state mental
20 health facilities, including accounting for specialized security and
21 high-acuity clinical staffing.

22 3. Evaluate the feasibility of privately operated secure state
23 mental health facilities versus separate and specialized secure state
24 mental health facilities operated directly by the Arizona state hospital.

25 4. Research if commitments of defendants who have been determined
26 to be dangerous, incompetent and nonrestorable pursuant to section
27 13-4521, Arizona Revised Statutes, as amended by this act, remains the
28 most appropriate legal pathway and if a modified civil commitment process
29 under title 36, Arizona Revised Statutes, provides better clinical
30 outcomes and federal funding eligibility.

31 5. Review the literature and data from this state and other
32 jurisdictions to project the growth over the next ten years of the
33 population of defendants who have been determined to be dangerous,
34 incompetent and nonrestorable pursuant to section 13-4521, Arizona Revised
35 Statutes, as amended by this act.

36 6. Evaluate the costs and logistics associated with entering into
37 an interstate compact or multistate agreement to establish an out of state
38 placement for a defendant who has been determined to be dangerous,
39 incompetent and nonrestorable pursuant to section 13-4521, Arizona Revised
40 Statutes, as amended by this act, if a bed in a secure state mental health
41 facility in this state is unavailable.

42 C. The committee may hold hearings, conduct site visits to existing
43 secure facilities and request data from the department of health services,
44 the Arizona health care cost containment system and the administrative
45 office of the courts.

1 D. Committee members are not eligible to receive compensation but
2 are eligible for reimbursement of expenses pursuant to title 38, chapter
3 4, article 2, Arizona Revised Statutes.

4 E. On or before December 31, 2026, the committee shall submit a
5 report of its findings and recommendations to the governor, the president
6 of the senate and the speaker of the house of representatives and provide
7 a copy of this report to the secretary of state.

8 F. This section is repealed from and after December 31, 2026.

9 G. For the purposes of this section, "secure state mental health
10 facility" has the same meaning prescribed in section 13-4501, Arizona
11 Revised Statutes.

12 Sec. 5. Department of health services; analysis; secure state
13 mental health facilities

14 A. The department of health services shall conduct an analysis of
15 the cost to staff and construct a new secure state mental health facility
16 on the grounds of the Arizona state hospital or renovate an existing
17 structure to be converted to a secure state mental health facility on the
18 grounds of the Arizona state hospital for defendants who are determined to
19 be dangerous, incompetent and nonrestorable pursuant to section 13-4521,
20 Arizona Revised Statutes, as amended by this act.

21 B. On or before November 1, 2026, the department shall submit the
22 analysis to the president of the senate, the speaker of the house of
23 representatives and the governor and provide a copy of this analysis to
24 the secretary of state.

25 Sec. 6. Applicability

26 Section 13-4521, Arizona Revised Statutes, as amended by this act,
27 and section 13-4521.01, Arizona Revised Statutes, as added by this act,
28 apply retroactively to from and after December 31, 2023.

29 Sec. 7. Emergency

30 This act is an emergency measure that is necessary to preserve the
31 public peace, health or safety and is operative immediately as provided by
32 law.