

Senate Engrossed House Bill
court-ordered treatment; judicial review

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

HOUSE BILL 2923

AN ACT

AMENDING SECTIONS 14-5312.01 AND 36-546, 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 14-5312.01, Arizona Revised Statutes, is amended
3 to read:

4 14-5312.01. Inpatient treatment; rights and duties of ward
5 and guardian

6 A. Except as provided in subsection B of this section, a guardian
7 of an incapacitated person may consent to psychiatric and psychological
8 care and treatment, including the administration of psychotropic
9 medications, if the care and treatment take place outside an inpatient
10 psychiatric facility licensed by the department of health services.

11 B. On clear and convincing evidence that the ward is an
12 incapacitated person and is likely to be in need of inpatient mental
13 health care and treatment within the period of the authority granted
14 pursuant to this section, the court may authorize a guardian appointed
15 pursuant to this title to give consent for the ward to receive inpatient
16 mental health care and treatment, including placement in an inpatient
17 psychiatric facility licensed by the department of health services and
18 medical, psychiatric and psychological treatment associated with that
19 placement. The evidence shall be supported by the opinion of a mental
20 health expert who is either a physician licensed pursuant to title 32,
21 chapter 13 or 17 and who is a specialist in psychiatry or a psychologist
22 who is licensed pursuant to title 32, chapter 19.1.

23 C. In making its decision to grant authority to a guardian pursuant
24 to subsection B of this section, the court shall consider the cause of the
25 ward's disability and the ward's foreseeable clinical needs. The court
26 shall limit the guardian's authority to what is reasonably necessary to
27 obtain the care required for the ward in the least restrictive treatment
28 alternative. The court may limit the duration of the guardian's authority
29 to consent to inpatient mental health care and treatment and include other
30 orders the court determines necessary to protect the ward's best
31 interests.

32 D. Within forty-eight hours after placement of the ward pursuant to
33 this section, the guardian shall give notice of this action to the ward's
34 attorney. When the attorney receives this notice the attorney shall
35 assess the appropriateness of the placement pursuant to section 36-537,
36 subsection B and section 36-546, subsection ~~H~~ L. If requested by the
37 attorney, the court shall hold a hearing on the appropriateness of the
38 placement within three days after receiving that request.

39 E. The inpatient psychiatric facility shall assess the
40 appropriateness of the ward's placement every thirty days and shall
41 provide a copy of the assessment report to the ward's attorney on request.
42 The ward's attorney may attend the ward's evaluation, staffing, treatment
43 team and case management meetings.

1 F. When the ward is admitted to an inpatient psychiatric facility
2 pursuant to this section, the guardian shall provide the facility with the
3 name, address and telephone number of the ward's attorney. The facility
4 shall include this information in the ward's treatment record.

5 G. Within twenty-four hours after the facility receives any writing
6 in which the ward requests release from the facility, any change in
7 placement or a change in the type or duration of treatment, the facility
8 shall forward this information to the ward's attorney.

9 H. All health care providers, treatment facilities and regional
10 behavioral health authorities shall allow the ward's attorney access to
11 all of the ward's medical, psychiatric, psychological and other treatment
12 records.

13 I. The ward's guardian shall place the ward in a least restrictive
14 treatment alternative within five days after the guardian is notified by
15 the medical director of the inpatient facility that the ward no longer
16 needs inpatient care. The ward, a representative of the inpatient
17 treatment facility, the ward's attorney, the ward's physician or any other
18 interested person may petition the court to order the facility to
19 discharge the ward to a least restrictive treatment alternative if the
20 guardian does not act promptly to do so.

21 J. If the ward is in an inpatient psychiatric facility at the time
22 of the initial hearing on the petition for appointment of a guardian, the
23 court investigator and the ward's attorney shall advise the court of the
24 appropriateness of the placement.

25 K. An attorney appointed pursuant to section 14-5303, subsection C
26 remains the attorney of record until the attorney is discharged by the
27 court. The court shall ensure that a ward whose guardian has been granted
28 inpatient mental health treatment authority is represented by an attorney
29 at all times the guardian has that authority. Unless the court finds that
30 the ward has insufficient assets to meet the ward's reasonable and
31 necessary care and living expenses, the ward shall pay the attorney's
32 reasonable fees.

33 L. If deemed necessary to adequately assess a request for inpatient
34 mental health treatment authority or to review the ward's placement in an
35 inpatient psychiatric facility, the court may order an independent
36 evaluation by either a physician who is licensed pursuant to title 32,
37 chapter 13 or 17 and who is a specialist in psychiatry or a psychologist
38 who is licensed pursuant to title 32, chapter 19.1. If the ward has
39 insufficient funds to pay the total cost of this evaluation, the court may
40 deem all or any part of the evaluator's fee to be a county expense after
41 determining the reasonableness of that fee.

1 M. Instead of ordering an independent evaluation pursuant to
2 subsection L of this section, the court may accept a report conducted on
3 behalf of the inpatient psychiatric facility if the court finds that the
4 report meets the requirements of an independent evaluation.

5 N. The court may decide that the ward's right to retain or obtain a
6 driver license and any other civil right that may be suspended by
7 operation of law is not affected by the appointment of a guardian.

8 O. If the court grants the guardian the authority to consent to
9 inpatient mental health care and treatment pursuant to this section, the
10 medical director of an inpatient psychiatric facility licensed by the
11 department of health services may admit the ward at the guardian's
12 request.

13 P. A guardian who is authorized by the court to consent to
14 inpatient mental health care and treatment pursuant to this section shall
15 file with the annual report of the guardian required pursuant to section
16 14-5315 an evaluation report by a physician or a psychologist who meets
17 the requirements of subsection B of this section. The evaluation report
18 shall indicate if the ward will likely need inpatient mental health care
19 and treatment within the period of the authority granted pursuant to this
20 section. If the guardian does not file the evaluation report or if the
21 report indicates that the ward will not likely need inpatient mental
22 health care and treatment, the guardian's authority to consent to this
23 treatment ceases on the expiration of the period specified in the prior
24 court order. If the report supports the continuation of the guardian's
25 authority to consent to inpatient treatment, the court may order that the
26 guardian's authority to consent to this treatment continues. If the
27 report supports the continuation of the guardian's authority to consent to
28 this treatment, the ward's attorney shall review the report with the
29 ward. The ward may contest the continuation of the guardian's authority
30 by filing a request for a court hearing within ten business days after the
31 report is filed. The court shall hold this hearing within thirty calendar
32 days after it receives the request. The guardian's authority continues
33 pending the court's ruling on the issue. At the hearing the guardian has
34 the burden of proving by clear and convincing evidence that the ward is
35 likely to be in need of inpatient mental health care and treatment within
36 the period of the authority granted pursuant to this section.

37 Q. The court may discharge an attorney who was appointed pursuant
38 to section 14-5303, subsection C subsequent to the appointment of a
39 guardian if it clearly appears from specific facts presented by affidavit
40 or verified petition that continued representation of the ward is no
41 longer necessary or desirable. The factual basis must include, at a
42 minimum, consideration of the following:

- 43 1. The nature and history of the ward's illness.
- 44 2. The ward's history of hospitalization.
- 45 3. The ward's current and anticipated living arrangements.

1 ~~B.~~ C. The patient shall be informed BY THE MEDICAL DIRECTOR OF THE
2 MENTAL HEALTH TREATMENT AGENCY of the patient's right to judicial review
3 ~~by the medical director of the agency~~ and the patient's right to consult
4 with ~~counsel~~ AN ATTORNEY at least once each sixty days while the patient
5 is undergoing court-ordered treatment. The notification required by this
6 subsection shall be recorded in the clinical record of the patient by the
7 individual who gave the notice.

8 ~~C. With the exception of requests made pursuant to section 36-540,~~
9 ~~subsection E, paragraphs 5 and 6 and section 36-540.01, subsection K for~~
10 ~~judicial review, a request for judicial review may not be made sooner than~~
11 ~~sixty days after the issuance of the order for treatment or a hearing on a~~
12 ~~previous petition for habeas corpus or the issuance of the court order or~~
13 ~~other final resolution determining a previous request for judicial review~~
14 ~~by the patient.~~

15 D. A REQUEST FOR JUDICIAL REVIEW SHALL BE MADE IN THE FOLLOWING
16 MANNER:

17 1. A WRITTEN REQUEST FOR JUDICIAL REVIEW MAY BE PRESENTED TO ANY
18 MEMBER OF THE TREATMENT STAFF OF THE MENTAL HEALTH TREATMENT AGENCY
19 PROVIDING THE PATIENT'S TREATMENT. THE REQUEST MAY BE MADE BY THE
20 PATIENT, AN ATTORNEY REPRESENTING THE PATIENT OR A HEALTH CARE
21 DECISION-MAKER ACTING ON BEHALF OF THE PATIENT. THE REQUEST MAY BE MADE
22 ON A PRESCRIBED FORM THAT IS PREPARED BY THE MENTAL HEALTH TREATMENT
23 AGENCY AND MADE AVAILABLE FOR USE BY ANY PERSON. THE COMPLETED FORM SHALL
24 IDENTIFY:

25 (a) THE NAME AND DATE OF BIRTH OF THE PATIENT BEING TREATED.

26 (b) THE MENTAL HEALTH TREATMENT AGENCY ASSIGNED TO SUPERVISE AND
27 ADMINISTER THE PATIENT'S TREATMENT PROGRAM AND, IF THE PATIENT IS BEING
28 TREATED AS AN INPATIENT, THE INPATIENT MENTAL HEALTH TREATMENT AGENCY AT
29 WHICH THE PATIENT IS BEING TREATED.

30 (c) THE NAME OF THE PERSON TO WHOM THE REQUEST FOR JUDICIAL REVIEW
31 WAS PRESENTED AND THE DATE THE REQUEST WAS RECEIVED.

32 (d) WHETHER THE PERSON MAKING THE REQUEST IS THE PATIENT BEING
33 TREATED OR SOMEONE ACTING ON THE PATIENT'S BEHALF. IF THE REQUEST IS MADE
34 BY SOMEONE OTHER THAN THE PATIENT, THE FORM MUST IDENTIFY THE NAME AND
35 CONTACT INFORMATION OF THE PERSON MAKING THE REQUEST AND IN WHAT CAPACITY
36 THE PERSON IS ACTING ON BEHALF OF THE PATIENT.

37 2. A MENTAL HEALTH TREATMENT STAFF MEMBER WHO RECEIVES A WRITTEN
38 REQUEST FOR JUDICIAL REVIEW SHALL PROMPTLY DELIVER THE REQUEST TO THE
39 MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY. IF THE PERSON
40 PRESENTING THE REQUEST REFUSES TO SIGN IT, THE MEDICAL DIRECTOR OF THE
41 MENTAL HEALTH TREATMENT AGENCY SHALL PROCEED AS IF THE REQUEST HAD BEEN
42 SIGNED AND SHALL NOTE ON THE REQUEST THE CIRCUMSTANCES WHY THE REQUEST WAS
43 NOT SIGNED.

1 3. WITHIN SEVEN BUSINESS DAYS AFTER RECEIVING THE REQUEST, THE
2 MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY OR THE MEDICAL
3 DIRECTOR'S DESIGNEE SHALL DELIVER THE REQUEST, ALONG WITH A CURRENT
4 PSYCHIATRIC REPORT OF THE PATIENT'S CONDITION, TO BE FILED WITH THE CLERK
5 OF THE COURT. THE CURRENT PSYCHIATRIC REPORT SHALL EXPRESS THE OPINION OF
6 THE MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY AS TO WHETHER
7 THE PATIENT CONTINUES TO MEET THE CRITERIA FOR COURT-ORDERED TREATMENT.
8 IF THE MEDICAL DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY IS OF THE
9 OPINION THAT A COURT ORDER FOR TREATMENT IS NO LONGER NEEDED BECAUSE,
10 ALTHOUGH THE PATIENT CONTINUES TO HAVE A MENTAL DISORDER, THE PATIENT IS
11 WILLING TO ACCEPT VOLUNTARY TREATMENT, THE MEDICAL DIRECTOR OF THE MENTAL
12 HEALTH TREATMENT AGENCY SHALL STATE AN OPINION REGARDING THE PATIENT'S
13 ABILITY TO ACCEPT AND FOLLOW THROUGH WITH RECOMMENDED TREATMENT
14 VOLUNTARILY. IN RENDERING SUCH AN OPINION, THE MEDICAL DIRECTOR OF THE
15 MENTAL HEALTH TREATMENT AGENCY SHALL CONSIDER THE PATIENT'S HISTORY OF
16 BEHAVIOR AND COMPLIANCE WITH TREATMENT BOTH BEFORE AND AFTER THE COURT
17 ORDER WAS ENTERED.

18 E. IF THE PATIENT IS UNDER A GUARDIANSHIP, WITHIN THREE DAYS AFTER
19 RECEIVING A REQUEST FOR JUDICIAL REVIEW, THE MEDICAL DIRECTOR OF THE
20 MENTAL HEALTH TREATMENT AGENCY SHALL NOTIFY THE GUARDIAN THAT A REQUEST
21 FOR JUDICIAL REVIEW HAS BEEN PRESENTED TO THE MENTAL HEALTH TREATMENT
22 AGENCY AND IS BEING FILED WITH THE COURT FOR FURTHER ACTION.

23 F. DELIVERY OF THE NOTICE REQUIRED BY SUBSECTION E OF THIS SECTION
24 SHALL BE ACCOMPLISHED BY ANY REASONABLE MEANS DESIGNED TO IMPART IMMEDIATE
25 NOTICE OF THE ACTION TAKEN, SUCH AS ELECTRONIC TRANSMISSION WITH RECEIPT
26 CONFIRMED BY THE PERSON TO WHOM IT IS SENT OR HAND DELIVERY. THE MEDICAL
27 DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY SHALL CERTIFY THE DELIVERY
28 AND RECEIPT OF DELIVERY BY A STATEMENT IN THE DOCUMENTS DELIVERED TO THE
29 COURT FOR FILING PURSUANT TO SUBSECTION D OF THIS SECTION OR BY A SEPARATE
30 WRITTEN CERTIFICATE FILED WITH THE COURT. IF DELIVERY IS NOT
31 ACCOMPLISHED, THE MENTAL HEALTH TREATMENT AGENCY SHALL CERTIFY ALL EFFORTS
32 TO ACCOMPLISH DELIVERY AND STATE THE REASONS DELIVERY COULD NOT BE
33 ACCOMPLISHED. A PERSON WHO IS ENTITLED TO NOTICE MAY WAIVE DELIVERY.

34 G. THE PATIENT SHALL BE INFORMED, AT THE TIME THE PATIENT MAKES THE
35 REQUEST, OF THE PATIENT'S RIGHT TO CONSULT AN ATTORNEY BY THE PERSON OR
36 COURT TO WHOM THE PATIENT MAKES THE REQUEST FOR RELEASE AND, IN THE CASE
37 OF CONFINEMENT IN A MENTAL HEALTH TREATMENT AGENCY, BY THE REVIEWING COURT
38 WITHIN ONE DAY AFTER THE COURT'S RECEIPT OF NOTICE FROM THE MEDICAL
39 DIRECTOR OF THE MENTAL HEALTH TREATMENT AGENCY WHERE THE PATIENT IS BEING
40 TREATED. THE PATIENT SHALL BE ALLOWED TO CONSULT AN ATTORNEY TO ASSIST IN
41 PREPARATION OF A PETITION FOR THE WRIT OF HABEAS CORPUS AND TO REPRESENT
42 THE PATIENT IN THE HEARING. IF THE PATIENT IS NOT REPRESENTED BY AN
43 ATTORNEY, THE REVIEWING COURT, WITHIN TWO DAYS AFTER THE COURT'S NOTICE TO
44 THE PATIENT OF THE PATIENT'S RIGHT TO COUNSEL, SHALL APPOINT AN ATTORNEY

1 TO ASSIST THE PATIENT IN THE PREPARATION OF A PETITION AND TO REPRESENT
2 THE PATIENT IN THE HEARING.

3 H. THE MENTAL HEALTH TREATMENT AGENCY HAS THE BURDEN OF PROVING, BY
4 CLEAR AND CONVINCING EVIDENCE, THAT THE PATIENT CONTINUES TO NEED
5 COURT-ORDERED TREATMENT. UNLESS THE COURT FINDS THAT THE PATIENT'S
6 TREATMENT IS ILLEGAL ON OTHER GROUNDS, THE PATIENT SHALL NOT BE RELEASED
7 FROM COURT-ORDERED TREATMENT UNLESS THE COURT FINDS THAT COURT-ORDERED
8 TREATMENT IS NO LONGER REQUIRED BECAUSE THE PATIENT IS NO LONGER, AS THE
9 RESULT OF A MENTAL DISORDER, A DANGER TO SELF OR A DANGER TO OTHERS OR NO
10 LONGER HAS A PERSISTENT OR ACUTE DISABILITY OR A GRAVE DISABILITY AND IS
11 NO LONGER IN NEED OF COURT-ORDERED TREATMENT OR IS WILLING AND ABLE TO
12 ACCEPT AND FOLLOW THROUGH WITH ANY TREATMENT NEEDED VOLUNTARILY.

13 ~~D.~~ I. Judicial review shall be in the superior court in the county
14 in which the patient is being treated. ~~That~~ WITHIN FIVE JUDICIAL DAYS
15 AFTER THE REQUEST FOR JUDICIAL REVIEW IS FILED, THE court ~~may~~ SHALL review
16 the additional material presented and MAY enter its order without
17 necessity of ~~further~~ A hearing.

18 ~~E.~~ J. The reviewing court may order a ~~further~~ hearing ON ITS OWN
19 MOTION, on the ~~affidavit~~ MOTION of the attorney for the patient OR ON THE
20 MOTION OF THE PERSON FILING THE REQUEST FOR JUDICIAL REVIEW ON BEHALF OF
21 THE PATIENT, setting forth the need for ~~further~~ AN evidentiary hearing ~~and~~
22 ~~the reasons why the hearing is necessary before the time set for the~~
23 ~~release of the patient.~~ THE COURT MAY ORDER AN INDEPENDENT EVALUATION OF
24 THE PATIENT PURSUANT TO SECTION 36-538. IF THE COURT ORDERS A HEARING, THE
25 HEARING SHALL BE HELD AS SOON AS POSSIBLE BUT NOT LATER THAN FIFTEEN
26 CALENDAR DAYS AFTER THE REQUEST FOR JUDICIAL REVIEW WAS FILED WITH THE
27 COURT. THE HEARING MAY BE CONTINUED FOR GOOD CAUSE. UNLESS OTHERWISE
28 ORDERED, IF THE PATIENT IS RECEIVING TREATMENT AS AN INPATIENT, THE
29 PATIENT SHALL REMAIN IN INPATIENT TREATMENT UNTIL THE COURT HAS MADE ITS
30 DETERMINATION. THE COURT SHALL NOTIFY THE PARTIES OF THE TIME AND PLACE OF
31 THE HEARING.

32 ~~F.~~ ~~The patient shall be informed of the patient's right to consult~~
33 ~~an attorney by the person or court to whom the patient makes the request~~
34 ~~for release at the time the patient makes the request and, in the case of~~
35 ~~confinement in an agency, by the reviewing court within one day of its~~
36 ~~receipt of notice from the medical director of the agency where the~~
37 ~~patient is being treated. The patient shall be permitted to consult an~~
38 ~~attorney to assist in preparation of a petition for the writ of habeas~~
39 ~~corpus and to represent the patient in the hearing. If the patient is not~~
40 ~~represented by an attorney, the reviewing court, within two days of its~~
41 ~~notice to the patient of the patient's right to counsel, shall appoint an~~
42 ~~attorney to assist the patient in the preparation of a petition and to~~
43 ~~represent the patient in the hearing.~~

1 ~~G.~~ K. The medical director of the mental health treatment agency,
2 at least twenty-four hours before the hearing, shall provide the patient's
3 attorney with a copy of the patient's medical records.

4 ~~H.~~ L. The patient's attorney shall fulfill all of the following
5 minimal duties:

6 1. Within twenty-four hours ~~of~~ AFTER appointment, conduct an
7 interview with the patient.

8 2. At least twenty-four hours before the hearing, interview the
9 patient's treatment physician or psychiatric and mental health nurse
10 practitioner if available.

11 3. Before the hearing, examine the clinical record of the patient.

12 4. Before the hearing, examine the patient's court records as to
13 the patient's involuntary treatment.

14 ~~I.~~ M. An attorney who does not fulfill the duties prescribed by
15 subsection ~~H.~~ L of this section is subject to contempt of court.

16 Sec. 3. Effective date

17 This act is effective from and after December 31, 2026.