

REFERENCE TITLE: mental health; hearings; acquaintance witnesses

State of Arizona
Senate
Fifty-seventh Legislature
Second Regular Session
2026

SB 1112

Introduced by
Senators Werner: Angius, Shope; Representative Gress

AN ACT

**AMENDING SECTION 36-539, ARIZONA REVISED STATUTES; RELATING TO MENTAL
HEALTH SERVICES.**

(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~~ **AT LEAST ONE WITNESS**, regardless of the witnesses' professional licensure, if any, who observed or ~~were~~ **WAS** acquainted with the patient at the time of the alleged mental disorder 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~~ **WAS** not ~~A formal participants~~ **PARTICIPANT** in the evaluation process. The **WITNESS** 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. **THE COURT MAY WAIVE THE REQUIREMENT FOR THE TESTIMONY OF A WITNESS ACQUAINTED WITH THE PATIENT**

1 IF THE COURT FINDS THAT THE STANDARD FOR ISSUANCE OF A COURT ORDER FOR
 2 TREATMENT HAS BEEN ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE FROM OTHER
 3 TESTIMONY AND EVIDENCE PRESENTED AT THE HEARING. Other persons who have
 4 participated in the evaluation of the patient or, if further treatment was
 5 requested by a mental health treatment agency, persons of that agency who
 6 are directly involved in the care of the patient shall testify at the
 7 request of the court or of the patient's attorney. Witnesses shall
 8 testify as to placement alternatives appropriate and available for the
 9 care and treatment of the patient. The clinical record of the patient for
 10 the current admission shall be available and may be presented in full or
 11 in part as evidence at the request of the court, the county attorney or
 12 the patient's attorney.

13 C. If the patient, for medical or psychiatric reasons, is unable to
 14 be present at the hearing and cannot appear by other reasonably feasible
 15 means, the court shall require clear and convincing evidence that the
 16 patient is unable to be present at the hearing and on such a finding may
 17 proceed with the hearing in the patient's absence.

18 D. The requirements of subsection B of this section are in addition
 19 to all rules of evidence and the Arizona rules of civil procedure, not
 20 inconsistent with subsection B of this section.

21 E. A verbatim record of all proceedings under this section shall be
 22 made by stenographic means by a court reporter if a written request for a
 23 court reporter is made by any party to the proceedings at least
 24 twenty-four hours in advance of such proceedings. If stenographic means
 25 are not requested in the manner provided by this subsection, electronic
 26 means shall be directed by the presiding judge. The stenographic notes or
 27 electronic tape shall be retained as provided by statute.

28 F. A patient who has been ordered to undergo treatment may request
 29 a certified transcript of the hearing. To obtain a copy, the patient
 30 shall pay for a transcript or shall file an affidavit that the patient is
 31 without means to pay for a transcript. If the affidavit is found true by
 32 the court, the expense of the transcript is a charge on the county in
 33 which the proceedings were held, or, if an intergovernmental agreement by
 34 the counties has required evaluation in a county other than that of the
 35 patient's residence, such expense may be charged to the county of the
 36 patient's residence or in which the patient was found before evaluation.