

Senate Engrossed

mental health; hearings; acquaintance witnesses

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

SENATE BILL 1112

AN ACT

AMENDING SECTION 36-539, 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 36-539, Arizona Revised Statutes, is amended to
3 read:

4 36-539. Conduct of hearing; record; transcript

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

16 B. The patient and the patient's attorney shall be present at all
17 hearings, and the patient's attorney may subpoena and cross-examine
18 witnesses and present evidence. The patient may choose to not attend the
19 hearing or the patient's attorney may waive the patient's presence. The
20 evidence presented by the petitioner or the patient shall include the
21 testimony of ~~two or more witnesses~~ **AT LEAST ONE WITNESS**, regardless of the
22 witnesses' professional licensure, if any, who observed or ~~were~~ **WAS**
23 acquainted with the patient at the time of the alleged mental disorder
24 before the submission of the current application for evaluation pursuant
25 to section 36-520 or, if after the submission of the current application,
26 who ~~were~~ **WAS** not ~~A formal participants~~ **PARTICIPANT** in the evaluation
27 process. The **WITNESS** testimony ~~of the witnesses~~ shall be limited to
28 observed facts and may not include expert opinion or conclusions. The
29 witness testimony may be satisfied by a statement agreed on by the parties
30 and testimony of the two physicians or other health professionals who
31 participated in the evaluation of the patient pursuant to section 36-533,
32 which may be satisfied by stipulating to the admission of the affidavits
33 as required pursuant to section 36-533, subsection B. The evaluating
34 physicians or other health professionals shall testify as to their
35 personal observations of the patient. They shall also testify as to their
36 opinions concerning whether the patient is, as a result of mental
37 disorder, a danger to self or to others or has a persistent or acute
38 disability or a grave disability and as to whether the patient requires
39 treatment. Such testimony shall state specifically the nature and extent
40 of the danger to self or to others, the persistent or acute disability or
41 the grave disability. If the patient has a grave disability, the
42 evaluating physicians or other health professionals shall testify
43 concerning the need for guardianship or conservatorship, or both, and
44 whether or not the need is for immediate appointment. **THE COURT MAY WAIVE**
45 **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.